ACCANect 2018

Day 2 Thursday, 13 September 2018

**Session 2: 9:20 – 9:40am**

**Australian Communications and Media Authority – New Consumer Standards**

**Presenter: Nerida O’Loughlin, Chair, Australian Communications and Media Authority**

**The ACMA has put in place new rules to give consumers confidence that their complaints will be effectively managed by carriage service providers (CSPs) if problems arise with an NBN service. In this session, Nerida O’Loughlin will provide an overview of the expected benefits for consumers.**

TERESA CORBIN: Our next speaker is Nerida O'Loughlin from the ACMA. She's not so new anymore, but she was appointed in October last year, so this is her first time at the ACCAN conference in this role, which is really very exciting. At least it's exciting for me. Exciting for you too, that's good. I just wanted to say that whilst the minister made some amazing announcements just before Christmas with three new industry standards, he then handed the baton over to the new chair of the ACMA to then deliver within record time on those standards. So we also have some consumer wins that Nerida will be able to tell us about.

NERIDA O'LOUGHLIN: Thank you very much, Nerida and firstly my apologies, I've got some lurgy I've picked up from one of my fellow authority members, I'm particularly grateful to. Thank you very much to Theresa and the ACCAN Board for the kind invitation to address your members this morning and thank you to ACCAN for the ongoing and effective advocacy that you do for one of our most important and valued stakeholders, telco consumers. I too would like to acknowledge the Gadigal people of the Eora Nation as the traditional custodians of the land present and emerging. I want to acknowledge the presence here today of Fiona Cameron who is one of our newer authority members and whose vast experience in the media, arts and communications sector makes her a very valuable addition to our team. I'll be speaking more about Fiona's role at the ACMA a little later in my address. As Teresa mentioned this is the first time that I've addressed this conference since my appointment to the role of the ACMA chair in October last year and I'm really honoured to be leading the ACMA working with fellow authority members and our staff, some of whom are here today at a time of such amazing innovation and development in the sector. I think we can all agree that the most profound change in the Australian communications sector over the last many years has been the roll-out of the Australian Government's National Broadband Network. Fundamentally, the nbn presents a once in a generation opportunity to improve broadband services for all Australians. It has the potential to deliver great benefits to the Australian community, including the creation of new businesses and supporting much-needed flexibility for workers. Nbn estimates that by 2021, there could be between 30 and 80,000 additional new businesses created as a result of the roll-out of the nbn and up to 47,000 additional people using the network to work from home. But we all know that there have been challenges and these have become increasingly obvious as the roll-out moves to its peak. So today I'd like to give you some context about the ACMA's many and varied consumer protection roles, provide an update on our recent work to improve consumers' experience in moving to services delivered over the nbn, and announce a couple of future actions. So in out what we saw as the ACMA's key priorities for those four years and if we project forward from now to over the next four years, huge amounts of change can continue to be expected to take place, including completion of the nbn, the roll-out or the commencement of the roll-out of 5G services. We wanted to project forward and look at what our priorities would be and we settled on the first of our priorities will be to ensure public confidence in the media and communications sectors and we feel that's essential for us delivering in our role about ensuring the economic and social benefits of services developed by these ever-evolving sectors are maximised for all Australians. The ACMA already takes a proactive role in safeguarding consumer protection across a range of sectors from investigating breaches of broadcasting codes which is always fun, through to enforcing compliance of online gambling rules, to managing the very popular "do not call register" to stop unwanted telemarketing and also a role in reducing spam. In the last reported year the ACMA conducted over 200 assessments of telecommunications provider compliance with the TCP code and concluded 31 investigations. Our main area of focus for those were complaints handling practices, a sweep of critical information summaries for service delivered over the nbn and unauthorised customer transfers. In that time, we issued 75 warnings about telco consumer protection and more than 3,000 warnings about unsolicited communications and using new powers to enforce prohibitions on illegal gambling we've seen a number of prominent illegal offshore gambling sites have access to Australians shut down. Here, I have to do a bit of a plug. We do have a table here today where you can view a variety of consumers across a range of issues and one of our newest videos focuses on such things as cabling and how it can impact the performance of Internet services in the home. So I would encourage you to visit our table at the break. One of our most recent interventions as the regulator has aimed to significantly improve consumers' experience as they move from their current telco services to services delivered over the National Broadband Network. The nbn network with its goal of enabling broadband to be provided to the whole country will be an essential part of our national infrastructure once it is complete. In a perfect world, the migration of consumers to service delivered over the nbn would be seamless. However, the sheer scale and speed of the roll-out of the nbn network, the geographical size of Australia present real practical challenges and disruptions for industry and for consumers and there's also as Nadine mentioned, an extremely complex supply chain that can be opaque and confusing for consumers making it even more difficult for them to navigate. Successive governments have committed to completing the nbn roll-out as quickly as possible given its potential benefits and while it's probably understandable that a rapid roll-out would create stress I think it's also reasonable that consumers should expect a certain level of service during that delivery. As the anecdotal evidence of consumer distress and confusion mounted over the last few years along with the rapid increase in complaints to the TIO, it was very clear that service standards weren't being met. It was also clear that industry co-regulation arrangements were struggling to deliver consumers in a number of important areas. In response, the ACMA undertook to focused consumer research. As an information-based regulator, research is at the foundation of all our work and this enables us to look at outcomes from a consumer side and also an industry side. But also I think move away from the anecdotal and get to fact. So between November 2017 and February 2018 we surveyed 81 residential households and 1,153 small and medium-sized businesses that had connected phone and/or Internet services to services delivered over the nbn in the previous 12 months and I think at this point I must be quite fair about this. Our research was undertaken at a particular point in time and its results therefore predated many concerted and collective efforts of the industry, of nbn Co and of regulators to improve the migration experience. It's useful to look at what we were looking at as the regulator at that time. So at that time the research showed most households and businesses had a positive experience in moving to services delivered over the nbn, but there were issues. 31 per cent of households and 42 per cent of businesses had made at least one complaint to their telco. Some of the other findings included -and I think this is the one that disturbed us most -was that more than one-third, 34 per cent of households and 40 per cent of businesses indicated they experienced a period without a home phone or an Internet service during migration. 16 per cent of households and 14 per cent of businesses reported that they lost one or both of their services for more than one week during migration. As Nadine said earlier, 20 years ago that might not have been an issue for people. They might be able to survive a week. Now-days, everybody lives and breathes and socialises and lives their phone for a week is extremely damaging to their businesses. Increasingly common was the lack of information given to consumers about the available services and the choices they could make. This included lack of certainty about the speed of services available. 29 per cent of households considered cost as the most important factor when choosing a plan or choosing the RSP to provide that plan followed by 21 per cent who put Internet speed as the most important factor. In contrast, businesses placed most importance on keeping their own phone number. That was highly important for them. While 75 per cent of all households and 69 per cent of businesses agreed they understood the steps involved in connecting to the nbn, slightly more than half, 53 per cent of all households and 55 per cent of businesses agreed they did not understand the different responsibilities of nbn Co and retail service providers in connecting them to the National Broadband Network. And as Nadine mentioned also, there was far too much buckpassing. A key problem revealed by the research was there was a lack of accountability with complaints being hand balled between parties in the nbn supply chain which extended complaint resolution times for consumers. So from our research, it was obvious that a significant number of consumers were losing confidence in the migration pathway to the nbn. So the ACMA has moved to put in place new rules that aim to ensure a much smoother migration. So the outcome of those rules for consumers are that firstly, consumers will have the information they need to make informed choices about the nbn service that is right for them. Retail service providers must provide consumers with the information needed to choose the nbn service service. Secondly, consumers will have greater confidence that their new service will work and will work as promised. Telcos will need to promptly check all new connections to make sure there is connectivity. They also need to verify any existing copper line connecting a customer to their new nbn service is capable of delivering the maximum data speed, or speed tier specified in their chosen plan and provide remedies if that data speed plan can't be supplied. Thirdly, consumers will have options if issues arise that mean their new service will take more time to work than planned. So if a new nbn connection doesn't work immediately, the retail service provider has to provide an alternative. That might mean an uplift in people's mobile data allowance, a billing rebate or payment to cover the data charges. Or, if disconnected for more than three days, the telco must put back in the old service, or give the consumer an alternative option such as Wii-Fii. And fourthly, consumers will have their complaints heard and addressed effectively. Now telcos have to acknowledge all consumer complaints within two working days, use their best efforts to resolve complaints on first contact and otherwise resolve complaints within 15 working days. And finally, carriers and service providers in the nbn supply chain must now provide the required reasonable assistance to each other to manage consumer migrations and resolve complaints and we will specifically focus on any continuing evidence of buckpassing. And all these new rules will all be enforced by 21 September. A number of them are already enforced and the last one comes into force next week. So as Teresa mentioned from a standing start of December last year we've moved very quickly to address issues of concern for consumers. So the experience for consumers, our job at the ACMA is not done. The ACMA has put telcos on notice they need to fully understand the new rules and take immediate steps to embed them in their business practice and unlike co-regulator codes, the new rules will be immediately and directly enforceable by the ACMA. We've released a statement of approach which you can view on our website. It has more detail about the approach that we're going to take to compliance enforcement of the new rules. So it gives visibility to everybody about how we will approach it and we've already commenced a targeted program of monitoring audits and investigations to ensure early industry compliance. The ACMA's monitoring will include using new record keeping rules that allow us to use the telco's own data to stay informed and have greater visibility of what's going on for consumers. And we're also planning to publish a quarterly report on the outcomes of our compliance and enforcement activities. Where we identify a potential breach of the new rules, we'll take prompt action that is proportionate to the risks and harms involved and the actions we can take range from formal warnings to remedial directions and infringement notices, to initiation of proceedings in the Federal Court. If a telco breaches an industry standard their ACMA can commence court proceedings commencing remedies such as injunctions and civil penalties of up to $250,000. For breaching a service provider rule the maximum civil penalty a court can impose is $10 million. The time-critical nature of the nbn roll-out means that early and consistent industry compliance with the new rules is essential and we're continuing to work on improving the experience of consumers through this priorities looking towards a future where communication services are absolutely central to the economic and social lives of all Australians. Consumer voices will be critical in informing policy and regulator settings to ensure that we all reap the benefits of those services. We at the ACMA consider we have a vital role to play in the development of those settings as well and to accentuate that role I can announce today that Fiona Cameron will be taking an authority lead role in the area of consumer safeguards on our authority. This role will stretch across TCP codes the nbn migration issues, unsolicited communications and more and it's great that Fiona has the opportunity at this conference to meet so many of our stakeholders and perfect timing, thank you Teresa. So the concept of authority leads came out of the review of the ACMA conducted by the department in 2016 and what it intends to do is to provide a focal point at the authority level of issues of importance that we are dealing with. So we'll be announcing other authority leads over the coming weeks, but I thought it was a good opportunity to announce Fiona's role today. In closing, I'd like to thank ACCAN again for the opportunity to address you this morning. It is clear that the new emerging communication technologies ranging from the National Broadband Network to the coming of 5G present enormous opportunities for economic growth and social inclusion. Consumer and user confidence are prerequisites -I knew I wouldn't get that word right -for participation in this new digital environment. The ACMA will continue to help consumers manage the uncertainty and disruption these new technologies bring so the benefits can be enjoyed by all Australians. Thank you. (APPLAUSE)

TERESA CORBIN: Thanks Nerida. If you can achieve that much in a year, because it will be October is a year, I'm looking forward to year two, because you'll have tools. It's very exciting from a consumer representatives perspective.