

## Media release

**For immediate release Tues 14<sup>th</sup> Sept 2010**

### **Delays, confusion and poor enforcement hamper privacy complaints**

A new report into communications-related privacy complaints has found there are vast differences in complaint resolution times, remedies and compensation available to consumers, depending on which of the three statutory bodies you lodge a complaint with.

Australians made 21,000 communications sector-related complaints last year, ranging from issues with spam emails, social networking sites and telemarketing calls through to the misuse of silent telephone numbers and life-threatening calls.

There are three bodies consumers can lodge a privacy complaint with: the Australian Communications and Media Authority (the ACMA), which received around 16,000 complaints last year; the Telecommunications Industry Ombudsman (TIO), with 5,000 complaints; and the Office of the Privacy Commissioner (OPC), which received just 110 complaints.

But the report, *Communications Privacy Complaints*, published by the Cyberspace Law & Policy Centre UNSW and funded through ACCAN's Grant Scheme, found the time it takes to satisfactorily resolve the privacy complaint varies widely between the three bodies.

The ACMA on average will resolve a privacy complaint in just five days, the TIO ten days, while the OPC – despite the relatively tiny number of complaints it receives – takes an average of 180 days – or six months.

The report also noted that the OPC, in contrast to other regulators, has never named a telecommunications organisation that has breached privacy, and there have been no formal determinations against any private sector organisation since 2005.

“The complete absence of any high profile or high impact enforcement action by the OPC means that business organisations are under no pressure to comply with privacy laws, or to respond to complaints quickly,” said Chris Connolly from the Cyberspace Law & Policy Centre.

“The OPC take an average of six months to resolve complaints; far longer than the ACMA and TIO. It is surprising following such long investigations the OPC seems unwilling to name and shame telecommunications organisations that breach consumers' privacy.”

Another problem highlighted in the report is the lack of advice available to consumers as to the best agency to take their complaint given the different outcomes that each can offer.

For example, if a complainant is seeking compensation and or an apology from a telecommunications provider, they should use the OPC or the TIO – not the ACMA.

ACCAN Chief Executive Teresa Corbin says there is a need for better coordination between the complaints' bodies and says, in a best practice regulatory environment, all three should be able to offer consumers the same outcomes.

“It shouldn't matter where consumers lodge their complaints, everyone with a serious privacy issue should have access to the same remedies – whether they be an apology, compensation, correction or removal of personal data, a change in individual company's business practices or industry as a whole for systemic issues,” said Ms Corbin.

“At the moment there is no clear path for consumers to take and the end result is confusion among consumers and a lack of accountability for the industry.”

**Media contacts:**

ACCAN

Elise Davidson

02 9288 4010 / 0409 966 931 / TTY: 02 9281 5322

[edavidson@accan.org.au](mailto:edavidson@accan.org.au)

[www.accan.org.au](http://www.accan.org.au)

Cyberspace Law & Policy Centre UNSW

Chris Connolly

02 9385 3337 / 0414 938 942

[chrisc@galexia.com.au](mailto:chrisc@galexia.com.au)

[www.bakercyberlawcentre.org/](http://www.bakercyberlawcentre.org/)

**Background for journalists**

About the Cyberspace Law & Policy Centre:

The Cyberspace Law and Policy Centre at UNSW provides a focus for research, public interest advocacy and education on issues of law and policy concerning digital transactions in cyberspace. It is a Centre of the Faculty of Law at the University of New South Wales in Sydney, Australia.

About the ACCAN Grants Scheme: As the peak consumer representation body in communications, ACCAN awards grants each year to research and advocacy projects that align with its goal of available, accessible and affordable communications for all Australians. This research report was one of the first projects funded through ACCAN's Grants Scheme.

**About ACCAN**

ACCAN (Australian Communications Consumer Action Network) is Australia's new communications consumer watchdog. ACCAN's purpose is to improve consumer advocacy, undertake research and analysis from a consumer perspective and make the market work for communications consumers. The operation of ACCAN is made possible by funding provided by the Australian government.