

**Andrew Williams – ACCAN CEO**

**Commsday Forum – 14 June 2023**

Good afternoon everyone and thanks to Grahame and the Commsday team for the invitation to present to you today.

Before I begin, I would like to acknowledge the Traditional Owners of the land on which we meet today. I would also like to pay my respects to Elders past, present, and emerging

It's been a while since I've been up on stage at one of these events

As you no doubt are aware, there's a lot going on in this space at the moment, so I thought I'd use this time to give you an update on some of the key issues as we see them.

In the last six months or so, ACCAN has been asked to provide input on a wide range of issues, spanning consumer protections, digital platforms, NBN Regulation, just to name a few.

These are the issues I'll focus on in this presentation

We've also released a number of policy positions informed by our work, so I'd also like to give you an overview of what's published but also what's coming downstream.

So let's dive straight in to Consumer Protections

**Consumer Protections**

As we all know, the process to review the TCP Code is underway and as of last week we provided our submission to Comms Alliance's information gathering discussion paper.

I would like to acknowledge the Comms Alliance team, particularly Peppi Wilson and John for their approach to the review process; we've been preparing for this for the best part of the last year and, while I have no doubt there will be points of disagreement, I also am very confident that we will collectively deliver better outcomes for consumers.

We also welcomed the invitation to the Minister's roundtable on the subject in March this year.

It's fair to say that in consulting with some of our constituents as part of this process, there's a reasonable degree of skepticism of the code's utility among consumers.

In fact, some of the feedback we've received from our members and stakeholders has been very blunt; summarised along the lines of having little confidence that it will adequately address the issues of consumers of telecommunications products and services.

Many have made a conscious decision to not engage in the process as a result of their skepticism, leaving ACCAN to mount the charge on their behalf.

This is a task we're very much committed to and looking forward to. It's my first time through this process so there's no scar tissue from my perspective.

Hopefully at the end of the process we will have collectively allayed the skepticism.

With telecommunications universally agreed to be an essential service, we believe it is no longer appropriate for it to be subject to a self-regulatory regime.

Feedback from many consumers we interact with supports the findings recently reported by both the TIO and ACMA in that consumers want:

- More efficient and effective customer service
- Improved billing accuracy
- Improved support for vulnerable consumers, including those experiencing domestic and family violence, and those having difficulty in paying their bills; and
- Improved selling and credit assessment practices.

So, having set the scene, we agree that this current review presents a very timely opportunity to undertake some serious reform.

We acknowledge that the TCP Code and the voluntary code system in general has delivered some very positive outcomes. The recent Call and SMS Scam codes and the Local Number Portability Code come readily to mind, and there's no doubt quite a few others.

However, this doesn't mean that there's no room for improvement, and that's the basis of the feedback we're getting from our stakeholders.

As I've mentioned, we believe there's room for improvement in some aspects of the code and, accordingly, we are calling for greater regulatory protection for consumers in areas such as:

- Stronger protection for vulnerable consumers, including those experiencing Domestic and Family Violence
- Greater protection against mis-selling
- Tighter credit assessment practices.

These, in our opinion, would serve consumers far better as direct regulation.

It also follows the precedent set in 2018 when, as we know, the Complaint Handling provisions were strengthened in the same way.

We believe this to be a good, sensible, way forward and will continue to advocate on this basis as the review progresses.

We also look forward to working with Comms Alliance, Government and Industry through this process too. It literally is our main priority.

I now want to move on to Digital Platforms

## Digital Platforms Regulation

Over the last few years ACCAN has become inexorably more involved in addressing consumer issues regarding Digital Platforms.

There's little doubt that the increased convergence of digital technologies with telecommunications and media has demonstrated significant benefits for both individuals and the broader community.

However, appropriate competition and consumer protection arrangements need to be in place for this to continue.

We are supportive of competitive and efficient digital platform markets that provide consumers with effective choice and confidence.

We have been closely following the ACCC's efforts through the Digital Platforms Services Inquiry and made contributions where we have been able.

Earlier this year we provided feedback to the Government's consultation on ACCC's regulatory reform recommendations paper and the ACCC's Issues Paper on the expanding ecosystems of digital platforms service providers.

Through this, it's abundantly clear that Digital platforms are a popular means for Australians to communicate with each other, and will continue to grow in popularity.

However, it's also abundantly clear that Australians are faced with numerous harms including scams, harmful apps and fake reviews.

For example, The ACCC reports that losses from social networking and mobile app scams almost doubled between 2020 (\$49 million) and 2021 (\$92 million). The ACCC estimates that only 13 per cent of victims report their scam and the actual sum of money lost to scams is likely much higher.

We've observed that platform and software ecosystems owned by large technology companies pose a range of competition and consumer harms:

- Lack of interoperable technical standards force consumers to juggle multiple services to stay in touch with friends and family.

- Lack of easy data portability and interconnected platform ecosystems can lock consumers in to specific providers.
- Large platform ecosystems can multiply the touchpoints services have with consumers and possibly increase the amount of data that large firms can collect from consumers beyond what they are comfortable with.

In our submissions we've argued that new pro-competition measures are required to encourage competition in digital platform markets and offer customers greater choice through greater interoperability and easier switching.

We agree with the ACCC's conclusion that existing regulatory frameworks do not adequately protect Australian consumers and small businesses from adverse outcomes.

We believe that platform ecosystems should be addressed using the ACCC's recommendations for regulatory reform of digital platforms.

In our mind, this should include:

- Economy wide prohibition on unfair trading practices and expanding the scope of unfair contract term laws.
- Mandatory processes to reduce scams, harmful apps and fake reviews.
- Targeted ex-ante codes to address competition risks for large designated digital platforms.

Our most pressing concern at present is providing consumers and the community somewhere to turn when things go wrong online.

### **Need for consumer representation and redress**

At present there is no funded consumer group to engage on digital platforms issues and no resourced authority to provide consumers with redress.

[Research by ACCAN](#) has found that three quarters of respondents think that it needs to be easier for people to make a complaint, and 80% think that it needs to be easier for people to get their issues resolved on digital platforms.

We have raised concerns that there is no dedicated Australian consumer organisation representing the interests of consumers in the ever-expanding digital platform environment.

We believe that a properly resourced consumer voice is needed to ensure that all Australian consumers can use digital platforms confidently and safely.

All stakeholders have acknowledged that the effectiveness of different regulatory schemes on digital platforms is unknown and will require ongoing consumer engagement and representation.

We recommend that consumer representation be adequately funded to properly engage with emerging issues facing Australian consumers on digital platforms.

ACCAN remains strongly supportive for an independent digital platforms ombudsman scheme as proposed in the Digital Platforms Inquiry Final Report in 2019.

This scheme is necessary to review decisions made by large digital platforms and ensure that consumers receive fair treatment.

A digital platforms ombudsman is needed as soon as possible, irrespective of whether the government chooses to establish a new body or further expand an existing body.

It has been three years since the ACCC's recommendation and no decision has been made. Every year of delay risks unnecessary harms from delays to consumers seeking redress.

We will continue to urge the government to develop a strategy for the establishment of a digital platforms ombuds scheme before the end of 2023.

So – now moving on to my next topic

### **NBN Future**

It would be remiss of me at a forum like this not to mention the gift that keeps on giving – the NBN SAU process.

Like many in the room we've been engaged in this process for quite some time now and welcomed the Minister's decision last year to reject the first SAU proposal.

We also welcomed the ACCC's draft decision to reject the revised variation and have recently lodged our formal response to the ACCC.

We have commented extensively on the economic aspect of the SAU, so I won't go into WACC and ICRA details here, but I would like to make some comments on a few matters raised in the draft decision.

Consumer engagement is at the heart of the economic regulation of monopoly services and, while no framework of engagement is perfect, we do not believe the framework as set out in the SAU provides an adequate basis for genuine engagement with consumers.

In short, we would like to see the revised SAU embed genuine consumer engagement on proposed expenditures, revenue, service standards and affordability by fully resourcing consumer engagement

Ensuring consumer engagement on these critical matters, and the tens of billions of dollars in forecast expenditure requires immediate action to resource this capacity.

While ACCAN's technical expertise is well established, it is finite. I worry that ACCAN will not be able to properly represent consumers on the economic regulation for both the proposed NBN SAU and broader communications policy matters without a material uplift in resourcing.

We believe that revisions are required to the SAU to amend the processes for consultation to embed the required resourcing to align with the long-term interests of end users, and provide greater regulatory certainty.

I congratulate the NBN with getting on the front foot and standing up the Low Income Digital Inclusion Forum (LIDIF) in anticipation of the SAU ultimately being accepted, and look forward to working with stakeholders to get more Australians online.

A key facet of this for ACCAN and our stakeholders is the provision of an affordable broadband product for eligible Australians as outlined in our No Australian Left Offline policy.

This remains as relevant today as it was when we released it in 2020.

With Government and Industry driving consumers to access more and more services via online channels, we believe that the financial dividend from these initiatives could be returned to our most vulnerable consumers as subsidies or concessions as appropriate.

We look forward to continuing that conversation.

Finally, in closing out this topic I sincerely hope that the next submission is the final one so we can all move forward with certainty. I suspect I'm not alone in this view as well.

## **Solutions**

As I bring this to a close I thought I'd take a moment to update you on a few initiatives that we believe would be of material benefit to consumers

### **Retail Rego**

ACCAN, along with a number of other organisations such as the TIO and ACMA, has long advocated for a retail registration scheme for service providers, and it was great to see the ACMA chair raise it again at the last Commsday forum.

Like these organisations, we too raised it in our response to the Government's 2020 consultation on Consumer Safeguards Review – Part C, and it continues to disappoint that this seems to have gone nowhere since.

Earlier this year we released a policy position on this issue as we too feel it will provide an appropriate level of visibility to the regulator.

There are four bodies that maintain lists of CSPs in Australia.

- Communications Compliance (**CommCom**)
- Telecommunications Industry Ombudsman (**TIO**)
- ACMA –
- Communications Alliance

However, none of these lists are comprehensive.



We argue that without minimum standards for market entry, it is difficult to prevent non-compliance and consumer detriment through CSP conduct before it occurs.

We don't see this as imposing a significant burden on Industry – in fact, some of our stakeholders wanted a licensing scheme, but we didn't think that would be practical – but we see the registration scheme providing material benefit to consumers

These are outlined in detail in our policy paper which is available on our website.

### **Independent Plan Comparison Tool**

We have also recommended that the Government develop an Independent Plan Comparison Tool to provide comprehensive and independent advice to consumers on the myriad of voice, data, and broadband products and services on the market.

We see this as being comparable to the energy made easy tool available for the energy market.

Our research shows that consumers overwhelmingly agree that it should be easier to find information about phone and internet plans.

We see this tool would ameliorate this issue and could be achieved with minimal impost by standardizing and utilizing the existing information contained in the Critical Information Summaries.

We envisage that this will provide consumers with key product and price information for telecommunications services, allowing them to select a service offering that best meets their needs, safe in the knowledge that it is truly independent advice.

### **Pipeline**

We've also got a few others in the pipeline focusing on Credit Assessment and Financial Hardship, but these will most likely be incorporated into our contribution to the TCP Code revision process, so I won't go into them here

## **Conclusion**

I'll wrap this up here, but in closing I'd like to highlight the fact that we seem to have been in a constant state of consultation overload for the last year or so.

I appreciate that's reflective of a vibrant and dynamic sector and I would like to reiterate my earlier comments about the spirit of collaboration.

In my 18 months in this role it's clearly apparent that, while we will invariably not always agree on specific issues, one thing we all have in common is a desire to improve the communications experience for consumers.

Thanks for hearing me out and I look forward to continuing the journey with you all.