



**Senator the Hon Stephen Conroy
Minister for Broadband, Communications and the
Digital Economy**

**Deputy Leader of the Government
in the Senate**

CommsDay Summit

**Swissotel, Sydney
Tuesday, 31 March 2009**

15-20 mins

Thank you and good morning everyone.

It is a pleasure to be here.

The CommsDay Summit is now well established as one of the most important events on the Australian telecommunications calendar.

This gathering is an important barometer for the state of the industry.

It is also an important conduit for conversation on the major themes running through the sector.

Communications Day, of course, is a vital read for the industry.

Its collection of sources and subscribers across the sector means it is always well connected when it comes to industry news.

Like many industry journals of late, CommsDay has been keeping a watching brief on developments around the National Broadband Network.

I understand there was speculation at one point that I may be making an announcement on the NBN today.

Unfortunately, that won't be the case.

However, I can confirm that the Government is now in the final stages of preparing its announcement and I expect to be able to provide much more detail on this important event in the days to come.

What should be clear is that the Government stands 100 per cent behind to its election commitment to deliver a National Broadband Network.

The National Broadband Network will be one of the largest infrastructure investments undertaken by any Australian Government.

It is therefore imperative and only right that the Government give this decision the full attention, scrutiny and care that it deserves.

This will ensure that we unlock the potential of broadband for all Australians – citizens and businesses.

It will ensure that as a country we can move ahead with confidence in a platform that will support our growth in the digital economy.

Infrastructure is one thing but confidence, of course, is another basic requirement for people to embrace new technologies, new services and new applications.

A business with digital confidence expands its online service offerings.

A citizen with digital confidence increasingly finds information, communicates and transacts online.

Through a range of measures, the Rudd Government is working to ensure that people and businesses have the confidence they need.

This includes efforts in cyber-safety and e-security.

It also includes collaborative work with industry to shape our future directions in the digital economy.

Today in the telecommunications industry, evidence suggests that consumers do not have confidence in their service providers.

The performance of telecommunications companies has not been good enough.

This was made plain by the release of Telecommunications Industry Ombudsman figures last year that showed a record, near 50 per cent increase in complaints.

The growth in complaints has been so large that it cannot be explained by market growth and increased industry activity.

Furthermore, the growth of complaints across a range of categories is a concern.

Of particular worry is a substantial surge in complaints about 'poor customer service' and 'complaint handling' processes.

My views on the customer service record of the telecommunications industry are well known.

I have been more than pleased to offer my support for the TIO Connect.Resolve campaign and I have made clear that telcos are on notice to respond.

The hope is that Connect.Resolve encourages providers to address consumer concerns and take greater responsibility on complaints performance.

Early this year I wrote to the Communications Alliance, and key industry members, setting out my expectations.

I made it clear that industry members should take immediate action to reduce the volume of complaints received by the TIO.

It should be known that I am prepared to implement regulatory measures to improve customer service and consumer protections – if the industry does not rise to the challenge.

I understand from the TIO that the initial industry response to Connect.Resolve has been positive.

This is an encouraging sign.

I am also heartened by plans for the Communications Alliance to host a Customer Services Summit towards the middle of the year.

I understand that the Summit will bring industry, consumers and government together to canvas options to improve customer service and complaint-handling performance.

A key objective will be the presentation and discussion of a draft set of Customer Service Charter Principles.

The Summit will also look at the establishment of a taskforce for the finalisation of those principles.

I welcome these efforts.

The Australian Communications and Media Authority is also closely examining these issues.

It has provided me with specific advice about potential improvements for customer service and complaint-handling processes.

While players should understand that they are on notice, it would be unfair not to acknowledge a number moves within the industry to improve customer relations.

For example:

- Vodafone has implemented a new training program for customer-care personnel;
- Telstra has established a new group dedicated to dealing with escalated complaints; and
- Virgin Mobile is now marketing a premium customer experience and has established a new role to focus on customer issues.

This activity suggests that industry has started to take the concerns of government and customers seriously.

However, the real proof will when we start to see the outcomes of these efforts.

Like many others, I will be closely watching the TIO reports to see if the industry's response results in reduced compliants.

The Rudd Government wants to see consumers in the telecommunications market getting the service and conditions that they expect.

Consumers have the right to expect telecommunications providers to deliver what they promise.

They also have the right to expect that their complaints or queries are properly recognised.

They have the right to expect an efficient and courteous response.

The Rudd Government's interest in consumer protection is not confined to the telecommunications sector.

Indeed, our efforts in this sector are part of a broader effort to improve conditions for consumers.

Last month the Government announced the fast-tracking of national consumer law reforms and new laws aimed at protecting Australian consumers.

Parliament will consider legislation later this year to protect consumers from unfair contract terms and provide new enforcement powers for the ACCC.

The new laws will allow consumers and the ACCC to take action against contract terms that cause detriment or a substantial likelihood of detriment to consumers.

These reforms will impact on standard contracts across a range of sectors.

We will monitor developments in the telecom space area very closely.

You may be aware that the Government has also been actively encouraging the establishment of a body to improve the representation of telco consumers.

The establishment of the Communications Consumer Action Network — ACCAN — is well advanced.

In November last year the Government provided \$700,000 to support ACANN's establishment costs.

ACCAN will commence formal operations from the 1st of July, with a mission to unite and coordinate the diverse interests of the various consumer groups.

It will provide consumers with the powerful advocate they deserve.

It will help to empower consumers in the telecommunications regulatory environment.

In relation specifically to improving the resolution of consumer complaints, I have already asked ACCAN to undertake some research in this area.

This is due to be completed in the first half of this year.

Specifically, I am interested in hearing about mechanisms that would enhance customer service.

To complement the establishment of ACCAN, we need to ensure the consumer protection framework is more responsive to consumer needs.

Our co-regulatory framework was designed to ensure all participants — consumers, industry, and government — have responsibility for developing practical solutions to emerging issues.

It was intended to provide a flexible, responsive approach with industry taking greater responsibility, in exchange for less ‘red tape’ regulation.

Under the current regime, emphasis has been given to providing consumer protections in the form of ‘codes of practice’ developed by industry.

However, in practice, the co-regulatory consumer protection framework has not lived up to expectations.

Over recent years, consumer advocacy groups have expressed concerns that the current consumer protection framework:

- it is too slow to respond to emerging technologies and market developments;

- it does not provide consumers with sufficient opportunity to be heard;
- it is not always complied with by industry; and
- it lacks adequate enforcement mechanisms.

A common criticism of the co-regulatory framework is the lengthy timeframes that accompany the development of new codes.

The Rudd Government is concerned the current code development process is unable to adequately address consumer protection issues when consumers are at their most vulnerable.

That is, during the period between the recognition of a problem and the implementation of a suitable safeguard or remedy.

Even the 2005 Consumer Contracts industry code — the industry's own bible — took almost five years to complete.

Clearly, there are deficiencies.

Unfortunately, I have seen little action to address these deficiencies.

It has been almost 5 years since the “emerging issue” of Mobile Premium Services was serious enough to warrant Ministerial involvement.

Over the past year there has understandably been growing consumer frustration

This is exemplified by the escalated number of consumer complaints to both my office and the TIO.

I note that the new Industry Code to address mobile premium services complaints is due to be registered shortly, subject to approval by ACMA.

I know that many of the people here today are frustrated that the code does not go far enough.

I understand these concerns.

For example, I am disappointed by reports that the code does not include ‘double opt-in’ and ‘call barring’.

I feel strongly that these measures would assist to protect consumers against unwanted mobile premium services.

ACMA is now faced with the choice of registering the code as it stands, or leaving consumers with the current inadequate protections.

This is rightly a decision for the independent regulator.

Let me be clear though, if the code does not deliver, the Government will intervene to introduce stronger measures to protect consumers.

The protracted development of the mobile premium service code highlights broader issue with the code development process.

The Government believes improved efficiencies can, and must, be achieved.

If co-regulation is to remain viable, industry must ensure that the code processes are more responsive to consumer needs.

Improved consultation between ACMA and the Communications Alliance during the recent mobile premium services code development highlighted that efficiencies within these processes are possible.

However, this requires that consumers, industry, and government be fully engaged in their respective roles to achieve adequate protection for consumers.

The co-regulatory system we have all inherited, particularly the self-regulatory mechanisms, requires progressive review and strengthening on an ongoing basis.

That is why today I am pleased to announce that the Government is undertaking a review of the processes for the development of Consumer Industry Codes covered by Part 6 of the Telecommunications Act 1997.

The review will examine the efficiency, effectiveness and responsiveness of the consumer code development processes under the current co-regulatory regime.

It will also look at opportunities for improvement.

The review will be driven by my Department which will work closely with ACMA as well as the Communications Alliance and consumer representatives.

An issues paper on the key issues to be considered by the review, and which seeks public submissions, is available on the Department's website.

In particular, I've asked the Department to advise me how we can reduce the lengthy timeframes taken to develop codes.

I consider that 18 months is more than ample time to undertake this process — including registration by ACMA, but we will be guided by the responses we receive on the issue paper with respect to this point.

I encourage all interested parties to put forward a submission on how the code development process can be improved.

The Government recognises that improving the code development process is only one part of the puzzle.

Effective telecommunications consumer protection should be supported by an increased emphasis on enforcement.

While the benefits of empowering the consumer are clearly evident, sometimes people may not have the skill and judgement to ensure their complete protection against poor industry practices.

This is why we have consumer laws and regulations.

However, the effectiveness of laws and regulations is at least partly dependent upon adequate compliance and enforcement activity.

Industries that deliver successful outcomes for consumers are characterised by effective enforcement by regulators with appropriate powers, resources and practices.

Policy makers, industry and the regulator all have an important role in the delivery of appropriate enforcement activity.

However, the regulator is at the forefront of compliance and its ability to take enforcement action is critical.

This is already working in the area of the Do Not Call Register where ACMA has brought enforcement action against companies in breach of their obligations.

ACMA says that 55 per cent of complaints about the register relate to the telecommunications industry.

In recent months, ACMA has embarked on a campaign to improve the compliance of the telecommunications industry through targeted enforcement and awareness raising about the register.

This has resulted in a 50 per cent drop in complaints to ACMA in the last quarter of 2008.

ACMA's recent enforcement action for breaches of the Spam Act is another good example.

In recent months, ACMA has targeted enforcement on SMS-based spam.

It has utilised a range of enforcement options against numerous companies.

This has resulted in improved consumer awareness of spam and the manner in which it can be reported.

In relation to the mobile premium services issue that I mentioned earlier, I believe there is scope for industry itself to undertake a more active enforcement role against poor industry behaviour.

Graeme Samuel, Chair of the ACCC, made the strong point at the recent ATUG Conference that he expects carriers to adopt rigorous standards and procedures which will close-off rogue providers from their networks.

I am pleased that initial steps have been undertaken in this regard.

The Australian Mobile Telecommunications Association and some carriers have advised that the industry is making an effort in relation to enforcement procedures.

Furthermore, stronger compliance and enforcement action is being undertaken by providers, including the issuing of formal warnings, imposing fines and the cancelling of services.

I applaud this action as another means of encouraging compliance.

I am also pleased to hear of the action being taken by the ACCC for breaches of the Trade Practices Act over misleading mobile phone advertisements.

These advertisement commonly relate to mobile premium services including wallpapers, ring tones, horoscopes and games.

As these enforcement examples illustrate, improved outcomes for consumers can be achieved when the enforcement of obligations is actively pursued.

These are encouraging signs but more needs to be done.

It is the Government's role to ensure the regulator has appropriate enforcement tools and resources to maximise the effectiveness of regulatory action.

There is scope to improve the effectiveness of current enforcement mechanisms available to the regulator.

We need to provide ACMA with faster, more effective incentives to encourage compliance with codes and regulations.

That is why today I am announcing that I will amend the Telecommunications Act to allow ACMA to issue infringement notices.

Infringement notices will enable ACMA to take strong and swift regulatory action without requiring the delays often associated with court action and will provide a most useful tool to assist consumers.

The weight of dissatisfaction and the unacceptable time taken to develop codes in the Australian telecommunications industry is a clear sign that more needs to be done to assist consumers.

The Government has determined to take a clear role in this area.

We are helping establish better consumer representation.

We are working to ensure a smoother and more effective code development process.

We are making sure that the regulator is adequately empowered to ensure that rules are kept.

Consumers are the lifeblood of any business.

It makes sense that telecommunications companies provide their customers them with adequate protection and the services they expect.

This is key to business and also key to the future of our digital economy.

Thank you.

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