

TRANSFORMING CONSUMER REPRESENTATION IN AUSTRALIAN COMMUNICATIONS

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Abstract

It is increasingly apparent that the old models of consumer consultation in the Australian communications industry are struggling in today's fast-paced, converging wireless and IP networking world. In the past, consumer representation tended to focus on what was considered to be bad about telecommunications services, and solutions were largely seen to lie with the service provider and/ or with the regulatory environment. This paper suggests that a change is underway in terms of the roles that consumers can now play and the opportunities that new physical networks and new forms of social networking provide – from the traditional dominant mode of confrontation, controversy and complaint towards new modes based on innovation, collaboration and partnerships.

[Note: The views expressed in this paper are those of the author and do not necessarily represent the views of Telstra Corporation Ltd.]

Introduction

The perspective of the social determination of technology leaves open the possibility that people can make a difference to their technological future if they are interested and get involved.¹

The Rudd Labor Government, elected in November 2007, appears to have given renewed emphasis to the role of public participation² in government deliberations. The Australia 2020 forum, held 19–20 April 2008, with 1000 Australian citizens invited to contribute, is one example of this approach on a grand scale.³ No doubt this interest is based on the perceived successes of the well-entrenched Queensland Government community engagement model, with innovations such as regional cabinet meetings, but more particularly, local government planning exercises and social impact studies for large infrastructure projects.⁴

Senator the Hon Stephen Conroy, as Communications Minister, is also giving renewed attention to the role of consumer participation in the telecommunications industry. Recognising that it was in some sense 'broken', the Minister convened a Telecommunications Consumer Stakeholder Forum which discussed ways to improve representation.

The Government announced at the Consumer Representation Stakeholder Forum in May 2008 that it would support the establishment of a new national peak body to provide telecommunications consumers with a stronger unified voice. Since then the Government has supported consumer stakeholders to work together to form such a body.⁵

¹ Lelia Green, *Technoculture from alphabet to cybersex*, Allen & Unwin, Crows Nest, 2002, p.9.

² The terms public participation, community engagement, consumer consultation and consumer representation are used interchangeably in this paper as referring to processes that allow participation or influence in decision making by people outside of the usual formal structures that manage such decision making.

³ See www.australia2020.gov.au (accessed 12/8/08).

⁴ Cf. www.getinvolved.qld.gov.au (accessed 12/8/08).

⁵ Senator the Hon Stephen Conroy, media release, 'New telecommunications consumer action network', 6 August 2008, www.minister.dbcde.gov.au/media/media_releases/2008/061 (accessed 14/8/08).

While public participation can be viewed simply as an extension of an age-old democratic principle, it has only come to prominence in science and technology since the 1970s according to Lengwiler, who ‘distinguishes four periods since the late nineteenth century, each with a specific relationship between expert and non-expert knowledge ranging from a *hybrid*, to a *politicized*, to an *autonomous*, to a *participatory* relationship.’⁶

A notable European development, beginning in 1987, has been the ‘consensus conference’, or ‘citizens’ panel’, approach to public participation in technology.

Its general goals are to improve decision making about science and technology by expanding access and perspectives beyond the traditional elite, increase the public understanding of science and technology through informed public debate, and enhance democracy by fostering civic engagement.⁷

Interestingly, the first such exercise to be held in the USA, in April 1997, was called the ‘Citizens’ Panel on Telecommunications and the Future of Democracy.’

Since these approaches to public participation specifically set out to include non-expert, lay citizens in technology discussions, rather than specifically interested stakeholders, they could be regarded as a form of market research; an extended, more structured form of focus group, that deliberates on a specific topic. This provides a useful point of comparison to Australian developments in consumer or user representation.

Australian communications users representation

In Australia, the development of organised consumer and user representation in the communications industry had somewhat different beginnings, being borne out of some controversy and public policy predicament with consumers and users themselves playing a leading role. In 1981 large business users of telecommunications services formed the Australian Telecommunications Users Group (ATUG) to lobby for industry changes, particularly for the introduction of competition and lower prices, when the Fraser Government did not act upon the recommendations of the Davidson inquiry into Telecommunications Services in Australia (in particular, the recommendation to end Telecom Australia’s market monopoly).⁸

The impetus to develop residential consumer representation came a little later, provoked by a Telecom Australia proposal to introduce time-based charging for local calls as a way of managing network loads. This was a socially controversial idea, caused considerable public outcry and was quickly proscribed by the Hawke Government after losing a by-election in February 1988.⁹ This led to the formation of the Telecom Australia Consumer Council (TACC later to become the TCCC) as well as other consultative mechanisms in an effort by the company to get back in touch with its customers and stakeholders.¹⁰ At their peak, these consultation processes involved approximately 90–100 consumer representatives, from every State and Territory (The Telstra Regional Consumer

⁶ Martin Lengwiler, ‘Participatory approaches in science and technology: Historical origins and current practices in critical perspective’, *Science Technology & Human Values*, Vol. 33 No. 2, March 2008, pp. 186–200.

⁷ David H Guston, ‘Evaluating the first U.S. consensus conference: The impact of the citizens’ panel on telecommunications and the future of democracy’, *Science Technology & Human Values*, Vol. 24 No. 4, Autumn 1999, p.452.

⁸ See www.atug.com.au/atughistory (accessed 6/8/08); *A History of ATUG 1981–2006*, Sydney, 2006; and *Committee of Inquiry into Telecommunications Services in Australia* (J A Davidson Chairman), Commonwealth of Australia, 1982.

⁹ Cf. Paul Kelly, *The end of certainty: Power, politics, and business in Australia*, Allen & Unwin, 1994, p.438.

¹⁰ See Christopher Newell, ‘Consumers and Telstra: Consultation a decade down the track’, *Communications Update*, Issue 155, June 1999; Christopher Newell and Gerard Goggin, *The Telstra Consumer Consultative Council: Objectives, structures and processes*, Melbourne, May 2000; and Michael J Bourke (ed. Tom Worthington), ‘The Telstra Consultative Councils’, www.tomw.net.au/uso/council (accessed 7/8/08).

Councils or TRCCs), meeting four times per year and generating a large number of issues for attention by Telstra management.

Since those beginnings, there have been other examples in the telecommunications industry such as the Optus Consumer Liaison Forum,¹¹ the Australian Communications and Media Authority (ACMA) Consumer Consultative Forum,¹² the Communications Alliance Consumer Council and Disability Council,¹³ and consumer representation on bodies such as the Telecommunications Industry Ombudsman (TIO) Council¹⁴ and others.

The historical beginnings of public participation in the Australian telecommunications industry does provide some insight into the nature of the models that persist today. Most are based on the 'consensus conference' exemplar, regularly held, which seeks broadly representative 'lay' involvement reflecting the diverse nature of the Australian community. Often there is great attention given to the various sectors, such as disability, Indigenous, women, seniors, or young people, that are to be represented in such processes. Often there is less certainty about the objectives or outcomes that are being sought or achieved through such processes.

However, there are at least two or three other models of such consumer representation in Australia today. The first and foremost is probably Choice, also known as the Australian Consumers Association, begun in 1959, which now operates as an independent product testing and publishing service, aiming to 'tackle the issues that really matter to consumers, arming them with the information to make confident choices and lobbying for change when consumers are getting a raw deal'.¹⁵ This is an impressive example of consumers doing it for themselves, albeit with a very careful eye on the commercial success of the publishing business, which supports the other activities. Participation generally depends on subscribing to either the online or printed reports and magazines, which may limit involvement for some people.

Another model is particularly evident in the financial services industry where specialised community legal services, in particular consumer credit legal services, have used individual cases of unfair or unlawful practices in various courts and tribunals to represent consumer interests and lobby for change. This has been extended to class action type proceedings where a breach affected a substantial number of consumers. With good arguments for *cy-près* settlements, penalties have on a couple of notable occasions been aggregated and used (by setting up trust funds) to provide resources for consumer research and advocacy in the sector.¹⁶ While important, a legal case-based approach may be limited in that it only allows for participation by those who have a grievance, which means the scope of interest is narrowly and negatively based.

The Communications Law Centre, once funded as a specialised community legal service, has played a similar role in the communications and media industry. The Sydney office, based at the University of NSW, was a party to the 'cash for comment' complaints in 2002–2003 and was very influential in having unfair terms proscribed in telephone contracts, but lost funding and its accommodation in 2005. The centre continues in Melbourne, as a part of Victoria University, and 'aims to be an innovative and influential centre of communications and media law ideas, research and community-based activity. We achieve our aims via legal information and advice, policy and law reform, education and research.'¹⁷ One of the things that distinguished the work of the centre is

¹¹ Information at www.optus.com.au (accessed 10/8/08).

¹² Information at www.acma.gov.au (accessed 10/8/08).

¹³ Information at www.commsalliance.com.au/Activities (accessed 12/8/08).

¹⁴ Information at www.tio.com.au (accessed 10/8/08).

¹⁵ See www.choice.com.au (accessed 12/8/08).

¹⁶ In particular, a case against Household Finance Corporation led to a substantial settlement that provided monies for setting up the Consumer Law Centre of Victoria, now merged with the Consumer Credit Legal Service to become the Consumer Action Law Centre. See www.consumeraction.org.au (accessed 12/8/08).

¹⁷ See www.comslaw.org.au (accessed 12/8/08).

its research competency and willingness to consult with industry before finalising any reports or recommendations. Such a rights based approach has the advantage of broadening the scope to all consumers thereby promoting the opportunities that come from communications as well as fostering relevant consumer protections.

Success or failure of consumer representation

Many years of representation and consultation have gone by since those heady beginnings in the 1980s (at least for those like the author who were closely involved), with many successes, but increasingly it appears with many frustrations. The following examples of ‘successful’ consultation outcomes from the author’s own experience, as a consumer representative from 1988 to 1994 and then industry representative from 1995 to the present, may provide some indicators of what works in consumer representation in telecommunications.

A first example is the InContact™ telephone service that was developed by Telstra in 1995 as a response to a research report from the Australian Council of Social Service (ACOSS) about the communications needs of people who are unemployed and couldn’t afford a standard telephone service for a period of time.¹⁸ This research was sponsored by the TCCC, through which the design and piloting of the service was negotiated. Affordability was addressed by making InContact free of ongoing monthly access charges. The service has been improved since then in conjunction with the Low Income Measures Assessment Committee (LIMAC) to offer a ‘payphone in the home’ service for people on a low income by allowing outgoing calls on a pre-paid basis.¹⁹ Relevant factors in bringing about this consultation outcome included social needs research, technology capability (digitisation of exchange equipment), consultation capability and collaboration in trialing the new service and a measure of interest from the Minister for Communications at the time.

A second example is the abolition of security bonds for consumer customers by Telstra in 1997 as a response to another TCCC research report on telephone affordability,²⁰ and advocacy by community Financial Counsellors since 1988 on the issue. Policy moved away from the everyday use of security bonds, to being an option of last resort, to eventually being phased out altogether when new technology offered rapid credit risk assessments with service restriction and more frequent billing as options where high risk was identified. Relevant factors again included social needs research, consultation and technology capability.

A third example is the comprehensive ‘Access for Everyone’ package of communications products and services for people on a low income that was developed by Telstra in 2002 as a response to changes in the price regulations of fixed telephone services in Australia. The package currently has nine programs, including: InContact, already mentioned; an emergency relief program called Bill Assistance; a MessageBox service for people who are homeless; calling cards for asylum seekers, refugees and others who rely on public payphones; and discounts for people on a pension and a number of other services that seek to address affordability.²¹ The design of these programs came about through extensive consultation with consumer and community sector agencies, who encouraged Telstra to not just think about its customers, but those who were not customers, even non-customers who might never be able to pay much for their communications, such as people who are homeless or asylum seekers. Since 2002, LIMAC has continued to monitor and review the effectiveness of these services. Relevant factors in bringing about this consultation outcome include

¹⁸ Australian Council of Social Service, *Keeping the contacts: Unemployed people and telecommunications*, ACOSS Research Report, Sydney, 1993.

¹⁹ A term used publicly by Chris Dodds, LIMAC Chairperson, to describe the InContact™ telephone service as it exists today.

²⁰ Telecom Australia, *The ‘Telephone Affordability’ Study*, by Don Porritt, Australia Social Issues Research, 7 September 1990.

²¹ See www.telstra.com.au/accessforeveryone (accessed 7/8/08).

those mentioned previously. However, in addition, there was the strong sense of practical partnership between Telstra and now some 4000 community agencies across Australia that directly offer some of the programs. These agencies offer an efficient channel to market and expertise in assessment of customer circumstances that Telstra would not otherwise be able to achieve.

A fourth example came about due to requests from people with a disability, with whom Telstra meets regularly through its Telstra Disability Forum (TDF), for a Telstra big-button phone that was specifically designed for that sector. The new Telstra phone has a number of features that others generally available don't have. For example, a socket into which can be plugged a variety of switch type mechanisms that enable a person with a severe physical disability to get the phone off-hook, and Telstra's delayed hot-line service then puts them through to an operator who can look up a number and connect them. This innovation was a direct result of consultation with interested stakeholders, making the phone a multi-purpose big-button phone. An additional relevant factor in this outcome was strong competencies for technical negotiation and collaboration between user representatives, Telstra and the manufacturer.

A fifth example is the Telstra Country Calling trial, which in 2006 was specially designed as a home telephone service for use in remote Indigenous communities. This was the subject of a separate investigation by the author into the role of consumer representation in product innovation.²² There was considerable user and stakeholder engagement work that went into designing Country Calling, which included Government officials, Aboriginal organisations and a wide range of consumer and community groups.

There are a number of other industry examples that can be readily recognised. The setting up of the Telecommunications Industry Ombudsman (TIO) scheme in 1993 was a joint industry-consumer exercise with substantial engagement and negotiation over its initial constitution, policies and procedures.²³ The development of a range of industry-consumer codes of practice through the Communications Alliance (previously the Australian Communications Industry Forum (ACIF)) generally involved substantial interaction and negotiation between industry, regulatory and consumer stakeholders within specific working committees. The author's own experience of the development of the Credit Management Code, and its subsequent revisions (now contained within the Telecommunications Consumer Protection Code), is one of substantial negotiation over a number of months to address consumer protection concerns in an efficient and effective manner. However, this has not been the experience of all participants in all code developments.

A common thread in the above examples is the value creation that comes out of innovation, collaboration, negotiation, partnerships and constructive relationships that are directed towards specific outcomes and closure. In all of these examples there was the creation of something genuinely new, whether a product, service, policy or process. In most of the examples, the basis for negotiation was both social needs (as evidenced by professional research) as well as business needs (as evidenced by commercial constraints or competitive context).

Despite such examples, indeed a tradition, of successful innovation, the mood throughout 2007–08 has shifted towards greater cynicism and frustration with current consumer representation processes, from both consumer and industry protagonists. There are a range of reasons given by both sides as to why this trend has developed. From this observer's conversations with various parties the following factors seem to be at play.

- Industry's expectations of consumer representatives is moving away from the 'consensus conference' model of non-expert, lay, participants towards what might be called 'savvy'

²² Robert Morsillo, 'Indigenous culture and communications: Can stakeholders build a better telephone service?', *Telecommunications Journal of Australia*, Vol. 58 No. 1, 2008.

²³ See the Statement from the Chairman of the Board, Ross Ramsey, in the TIO's first *Annual Report*, 1994, p.5 and further under 'Origins', p.12, www.tio.com.au/publications/annual_reports/ar1994/AR_94.pdf (accessed 7/8/08).

consumers who understand and use the technologies and who can represent the benefits as well as the costs or risks of usage.

- The expectation that industry will consult consumers in a comprehensive way is not seen to be matched by a propensity for consumers to readily consult industry on policy or issues, but rather to more readily solicit regulators as the primary audience.²⁴
- It is extremely difficult to work towards outcomes that require cooperation, compromise and consensus in an increasingly aggressive industry environment (e.g. 169 licensed carriers,²⁵ 421 Internet Service Providers²⁶), where the stakes are very high in regard to future investment and the Government's decision about the National Broadband Network.
- Consumers' expectations of industry cooperation and compliance are very low, resulting in a continued predilection for regulatory intervention rather than exploring other strategies such as publicly naming and shaming, or recognising and promoting industry best practice, or assisting with more effective consumer education.
- Coordination resources for telecommunications in the consumer sector have been gradually decreasing for the last 10 years. The Government's consumer representation and research program appears to have devolved to short-term, disaggregated discretionary grants, with timelines that have put consumer organisations at financial risk. This has probably also contributed to the long-term decrease in the effectiveness of consumer representation.
- Consumers' expectations continue to emphasise comprehensive and inclusive consultation processes versus industry's expectations of effective representation, efficiency, outcomes and closure.
- There is a renewed questioning of what does 'representation' mean with consumer priorities directed towards diversity and inclusiveness while industry targets *ability* to represent.

The seemingly tortuous development of the Mobile Premium Services (MPS) code of conduct during 2007–08 is perhaps an ample illustration of the battle between strong consumer expectations of comprehensive protection provisions built on inclusive consultation processes versus strong industry expectations of commercial flexibility and opportunity with the least amount of compliance costs and regulatory interference as possible. Communications Alliance summed up the state of play from an industry point of view:

Process is important but the paramount consideration should always be the outcome. Whether a particular group or organisation has been adequately consulted should not detract from the common overarching objective of achieving a positive deliverable for the end-user.²⁷

The question must now be asked whether the vast changes that have occurred in technology development and dissemination since those late 1980s beginnings are cause for rethinking the rationale and basis for effective models of engagement. For example, on the business side, Telstra, at least, has been arguing that investment in Next Generation Networks is now the most pressing public policy issue rather than legacy price and competition issues on the old Public Switched Telephone Network (PSTN). On the consumer side, the rapidly increasing complexity of choices from service providers, particularly for mobile and Internet services, raises questions about the

²⁴ A recent example being the Consumers' Telecommunications Network, Australian Communications Exchange, Media Access Australia paper on 'Accessible Broadband for All Australians', Sydney, 2008.

²⁵ As at 30 June 2007, *ACMA Annual Report, 2006–07*.

²⁶ ABS 8153.0 – *Internet Activity, Australia*, Dec 2007.

²⁷ Josh Faulks, 'Consultation – Process or outcome?', *Communicate newsletter*, July 2008, Communications Alliance, Sydney, p.6, available from www.commsalliance.com.au (accessed 7/8/08).

ability of consumer representatives to keep up with such developments and their impacts and implications for diverse groups in the community.²⁸

User-led innovation as a foundation for consumer representation

As noted, innovation is a common thread in the examples of successful consumer representation outcomes cited above. By broadening and deepening the role of the end-user and their representation in the design and implementation processes new types of products and services were developed that did not exist before and which were matched to specific user needs and market segments. More generally, there is a growing recognition that innovation is moving away from ivory towers and laboratories to a distributed model involving networks of users, designers, engineers and other stakeholders. Eric von Hippel's research points to the important role of lead users, or early adopters, of new products who influence the directions of later development by asking 'wouldn't it be good if' type questions, or utilising the product in ways that were not first imagined by the designers.²⁹

Consumers now play a role in the design and marketing of goods, with 'lead users' contributing to product innovation ... These developments represent the beginnings of what is shaping up to be an immense and enduring shift in the relational patterns encompassing the production and consumption of culture, goods and services.³⁰

This change is only slowly being comprehended. As recently as 2006 a Commonwealth Parliamentary inquiry into innovation hardly mentioned the role of end-users in innovation, simply noting that 'some submissions highlighted the importance of the strong participation of end-users in the adoption process.'³¹ Yet in 2003 Terry Cutler, under the rubric of 'Eye on the Future', had already summed up how one might more successfully innovate new technologies.

So how do we keep an eye on such futures? My answer is that we need to break out of the constraints imposed by a teleological paradigm of technologically determined innovation. This is the 'closed system' logic of market development from basic product research and development, through commercialisation, and onwards to markets and exports ... It keeps failing. It keeps failing because this neat 'PowerPoint presentation' model is a closed system without crucial feedback loops. And the most important feedback and learning comes from the unorganised and messy world of end users.³²

More recently, in February 2008, speaking about the just announced Commonwealth review of the National Innovation System, Cutler identified that:

some of the drivers for change include: the shift from in-house R&D laboratories to networks of 'open innovation'; the rise of globally networked operations and 'cyber-infrastructure'; the rise of user-generated innovation and demand-driven searches for applicable knowledge and solutions; ... and the increased sense of urgency around finding solutions to global and national challenges like climate change, future energy sources, water supply, and a healthy population.³³

²⁸ Cf. 'The changing policy environment', in Productivity Commission, *Review of Australia's Consumer Policy Framework*, Final Report, Canberra, 2008, pp. 4ff.

²⁹ Eric von Hippel, *Democratising innovation*, MIT Press, Cambridge MA, 2005.

³⁰ Tony Walker in his Foreword to Darren Sharp and Many Salomon, *User-led innovation: A new framework for co-creating business and social value*, Smart Internet Technology CRC, Sydney, 2008, p.9.

³¹ *Pathways to Technological Innovation*, House of Representatives Standing Committee on Science and Innovation, The Parliament of the Commonwealth of Australia, Canberra, 2006, p.144.

³² Terry Cutler, 'Eye on the future', *Telecommunications Journal of Australia*, Vol. 53 No. 2, 2003, pp. 34–35.

³³ Terry Cutler, 'Innovation – What it is and Why it matters', Speech at the Australian Industrial Research Group's annual conference, Melbourne, 25 February 2008, www.innovation.gov.au/innovationreview (accessed 7/8/08)

Regarding media and communications more specifically, ACMA has also identified user innovation as part of what it considers the top six trends impacting its functions and responsibilities.³⁴ While most of these trends appear as supply side technology drivers they do include ‘The emerging social web acting both as platform and database, enabling innovation and creativity by users and service providers ... Social networking is emerging as a platform where individuals and networks of people influence and shape behaviour, community views and corporate strategies.’ ACMA also notes the development of ‘mesh networks’ by users (‘DIYnets’ – to use Mark Pesce’s term)³⁵ as an example of the increasing diversification of physical infrastructure.³⁶

The increasing consequence of user-led innovation is of course an outcome of the remarkable change in opportunities that the Web has provided for do-it-yourself activities. Darren Sharp sums it up well by saying that:

It has never been easier for people to tell their own stories, express their creativity, and form communities of passion. A range of Do-It-Yourself Web-based services now give any user with access the ability to become a producer in a variety of social fields. The Web has become the habitat for a new services ecology that is remarkably complex, adaptive, and self-organising. At the heart of these fundamental changes are the shifting value networks of knowledge production, distribution and consumption that have come to be known as ‘user-led innovation’. These shifts are disrupting entrenched power structures, re-defining long-held economic assumptions, and providing opportunities for new terms of engagement between service providers and their user communities.³⁷

The following trends in technology and usage exemplify the ‘new terms of engagement’ that might enable new value to be gained from consumer representation in telecommunications.

Convergence

When films, music, phone calls, and texts are able to reach the individual household via optical fibre cables, the previously separate media of television, radio, telephone, and mail will become a single medium, standardised according to transmission frequency and bit format.³⁸

The aspirations of businesses such as Telstra to become a ‘media-comms’ company³⁹ highlight a natural progression in seeking to maximise the value of physical networks. As Trevor Barr points out, the large bandwidth pipes of the next generation fibre network investments have to be gainfully filled and ‘the Internet’ as we currently know it will only use (and pay for) a very small part of that bandwidth.⁴⁰ Communications and media will continue to merge to produce a myriad of applications, each with its own set of capabilities and confusions. New services such as IP TV, video-on-demand, home security, in-home health monitoring, and video-calling/ conferencing will quickly become available.

Consumer representation will need to ground itself in significant social needs analysis, not just on accessibility and affordability issues, but on what will enable positive opportunities for education, health, employment, the arts, political and cultural expression, and many other issues that drive individual and community wellbeing.

³⁴ Australian Communications and Media Authority, *Top six trends in communications and media technologies, applications and services – Possible implications*, Melbourne, March 2008.

³⁵ Mark Pesce, ‘Understanding Gilmore’s Law (Telecoms Edition)’, presentation to the Telstra Consumer Consultative Council, 24 July 2007, www.viddler.com/explore/mpesce/videos/7 (accessed 7/8/08).

³⁶ Australian Communications and Media Authority, *op.cit.*, p.7, referring to SydneyFreeNet, see <http://blog.freesydneywireless.com>.

³⁷ Darren Sharp, ‘Submission on user-led innovation’, Review of the National Innovation System, April 2008, available from www.innovation.gov.au/innovationreview (accessed 10/8/08).

³⁸ Friedrich Kittler, ‘Gramophone, Film, Typewriter,’ in *Literature, Media, Information Systems*, J Johnston (ed.), 1997.

³⁹ See www.telstra.com.au/abouttelstra/corp/executives.cfm#trujillo (accessed 15/8/08).

⁴⁰ Trevor Barr, ‘Broadband Network and Service Models’, presentation to TCCC, Sydney, 16 July 2008.

'It's about the software'⁴¹

The increasing digitisation of information leads to another trend, most notable with recent devices such as Apple's iPhone, whereby the device *is* the software, rather than the physical artefact that runs it. Unlike most mobile phone handsets, the iPhone basically has only one physical button, a 'home' button. All other features, including the keyboard, are represented in software, which means the device can become almost anything anyone wants it to be, just by developing the relevant software applications. Already there are over 3000 applications, or 'Apps' as Apple calls them, available for the device, turning it into a game machine, a music synthesizer, a restaurant locator or just about anything else that can be imagined.

The same trend is happening at the major communications network infrastructure level, with the conversion to Next Generation Networks utilising IP/ MPLS (Multi Protocol Label Switching) cores, so that voice, video, Internet, email, SMS, calendars, contact, movies, and other services become software applications that run on the network. Again, the network therefore becomes whatever applications can be imagined, just by developing the relevant software.

These trends will hopefully provide much greater scope for innovation and engagement by savvy consumer representatives. As users of the 'software', they can assume roles such as beta-trialists, de-buggers, and lead-users; they can request new features, offer tips and tricks, write reviews and offer comparative ratings. Industry should be better placed to offer bug fixes and improvements through updates and new programmed features with much faster cycle times.

Web 2.0

On-line consumers are no longer relegated to simply reading or receiving information, they are able to respond quickly to new media, to produce and disseminate content in a variety of accessible ways, including blogging, videos and vodcasts, photos and podcasts on either specialist sites such as *Flickr* and *YouTube* or social networking sites such as *MySpace* and *Facebook*. Web 2.0, particularly as a peer-to-peer relational dynamic, is associated with building or creating something that is of value.⁴² Wiki software allows the user-community to share knowledge and expertise, and to create databases and encyclopaedic information resources (so *Wikipedia*) based on their own informational priorities and concerns.

This trend provides astonishing scope for do-it-yourself consumer representation and advocacy. Rather than rely on industry produced information, users can write their own reviews, tips and hints, guidance and warnings. The ability of such online activism to influence decision makers is increasing as the sheer numbers of visitors to web-sites begin to overtake traditional broadcast media audience reach. Sites such as *GetUp* are able to initiate campaigns designed to influence public opinion and even voting behaviours. The power of technology blog sites such as *Engadget* and *Gizmodo* to influence the consumer electronics industry is now well recognised, 'They have audience, and they have influence.'⁴³ Australian sites such as *Choice*, *Phonechoice* and *Whirlpool* are also providing active, user-led, consumer feedback on technology choices. For many large companies, managing their 'online reputation' is now a key imperative.⁴⁴

Choice

Increasing industry competition with greater market segmentation and differentiation for ICT devices also has implications for consumer representation. This trend is most visibly seen in mobile

⁴¹ Steve Jobs, CEO Apple Inc., <http://d5.allthingsd.com/20070530/d5-gates-jobs-interview/> and <http://d5.allthingsd.com/20070530/steve-jobs-ceo-of-apple/> (accessed 9/8/08).

⁴² Cf. Michel Bauwens, 'P2P and human evolution: Peer to peer as the premise of a new mode of civilization,' www.networkcultures.org/weblog/archives/P2P_essay.pdf (accessed 15/8/08).

⁴³ Carlye Adler, 'Gear Blog Rivals Engadget and Gizmodo Turn the Competition Up to 11', *WIRED*, Apr 08, p.110.

⁴⁴ Cf. Telstra's www.nowwearetalking.com.au initiative.

phone devices where there are hundreds to choose from across several service providers. Telstra alone on its Next G™ network has over 50 handsets, not to mention other 2G and 3G handset options.⁴⁵ Such is the take-up of mobile telephony that in places like the European Union it is now seen as having resolved the issue of universal service delivery.⁴⁶ The same trends are being seen in the computer lap-top market, where prices are trending down as new, smaller ‘netbook’ models provide further impetus to closing the ‘digital divide’ by providing Internet connectivity with core computing functions such as word processing.⁴⁷

This trend is remarkable in bringing the benefits of ICT to extended audiences including ever younger users as well as older users. It offers a different paradigm for addressing the needs of people on a low income or people with disability whereby user testing and innovation utilising off-the-shelf products replaces regulated or standardised technology design constraints. Such testing and development is often done through partnership networks of manufacturers, service providers and non-government organisations, including partnerships for corporate social responsibility. For example, with mobile phones:

Australia’s NovitaTech adapts Bluetooth car kits for wheelchair users, adding a switch. ‘It might be a foot, finger or head switch, or operated by sucking on a tube or blinking,’ says R&D group leader Rob Garrett. ‘Wherever a person can operate that switch reliably.’⁴⁸

New role models for consumer representation

Without lessening ongoing vigilance for consumer protection in telecommunications, new models of engagement between consumers and industry are required in the converging digital networking environment. Such ways of working could empower consumers to co-create their own technology opportunities, particularly through greater use of online collaboration and advocacy.

With the trend towards do-it-yourself, user generated content, it is clear that *representatives must be users* and users must become representatives. Consumer representation can work to *directly influence market outcomes* quickly, rather than slowly and indirectly through regulatory outcomes.⁴⁹ It may require recruiting a new generation of tech-web-savvy consumers who wish to make a contribution to social well-being through their communications choices and advocacy. It may require recruiting open-source coders and hackers to write the software applications that will provide accessible features on new smart phones (e.g. Apple’s iPhone) that represent the convergent and peripatetic future of media and communications.

With day-to-day interactions increasingly moving online, engagement between industry and consumers needs to prioritise *networks of users* rather than committees of representatives. While face-to-face opportunities will still remain important, timeliness, efficiency, carbon and cost concerns will mean greater reliance on electronic ways of working. It is the ideas that must be garnered from all over and moved around rather than the people.

With the move to Web 2.0 working, industry and industry associations need to allow a greater level of *engagement with their consumer and user communities* through online forums, discussion lists, and wikis (that could be open or closed depending on the consultation scope). This requires greater transparency early in the development process, and a willingness to listen and respond to feedback

⁴⁵ A search of <http://telstra.com> at 14 August 2008 produced 66 mobile handset results.

⁴⁶ Cf. ‘Ofcom Consumer Panel response to the EU Review of the Scope of Universal Service’, July 2005, www.ofcomconsumerpanel.org.uk/files/advice/EU_USO_1.pdf (accessed 14/8/08).

⁴⁷ Cf. Paul Bergevin, Technology@Intel, http://blogs.intel.com/technology/2008/03/thoughts_on_netbooks.php (accessed 14/8/08).

⁴⁸ *Nokia Accessibility Guide*, 2008, available from www.nokia.com.au/A4522020 (accessed 14/8/08).

⁴⁹ Cf. the role envisaged for consumer representation agencies in the OECD’s *Policy Guidance for protecting and empowering consumers in communication services*, DSTI/CP/ICCP(2008)1/FINAL, 2008.

in order to maximise the innovation benefits. Tim O'Reilly, widely credited with coining the term Web 2.0, says:

Web 2.0 is the business revolution in the computer industry caused by the move to the internet as platform, and an attempt to understand the rules for success on that new platform. Chief among those rules is this: Build applications that harness network effects to get better the more people use them. (This is what I've elsewhere called 'harnessing collective intelligence.').⁵⁰

With a greater focus by corporations on their ability to operate successfully and sustainably in their chosen communities there comes a greater interest in *how corporate social responsibility can be mutually beneficial*. Daniela Stehlik talks about the *relationship* between industry and its community and the need to build a 'bank of trust' through 'mutuality, reciprocity and respect'.⁵¹ Ron Harper comments that 'we have to think about Web 2.0 in terms of community rather than blogging, which tends to be associated with putting the message out there ... it's about *building community* with them.'⁵² The prime way this can happen is through industry-community partnerships that seek to *maximise the value of communications* as well as wishing to offer innovative options to constituencies who have specific needs. However, relying solely on corporate social responsibility may be a contentious proposition. Lengwiler notes that 'Under contemporary market conditions, participation does not automatically substitute commercial activities with non-commercial ones.'⁵³ There is still then a larger question regarding appropriate oversight of these 'voluntary' commitments, whether they are successful in improving participation or whether some more formal arrangements are required such as a memorandum of understanding between consumers and industry or other regulatory basis.

With Minister Conroy's initiative to unify and strengthen the consumer voice in telecommunications by consolidating resources in a new peak body called the Australian Communications Consumer Action Network (ACCAN), the consumer sector will hopefully be provided with much needed *coordination resources and a greater capacity for policy research* from the 2009–10 funding round. Such a move is consistent with the recommendation for increased consumer funding by the Productivity Commission in its Review of Australia's Consumer Policy Framework.⁵⁴

Finally, with an increasing global context for communications products and services, consumer representation must be guided by *international best-practice*. The International Association for Public Participation (IAP2) core values describe the fundamental democratic basis for public participation in decision making.⁵⁵

1. The public should have a say in decisions about actions that could affect their lives
2. Public participation includes the promise that the public's contribution will influence the decision
3. Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision
5. Public participation seeks input from participants in designing how they participate

⁵⁰ <http://radar.oreilly.com/2006/12/web-20-compact-definition-tryi.html> (accessed 15/08/2008).

⁵¹ Daniela Stehlik, 'Building communities through partnerships', presentation to 2008 Communications Consumer Dialogue, www.slatteryit.com.au/dialogue2008/presentations.html (accessed 15/8/08).

⁵² From a discussion with Telstra about 'Corporate use of online social networking tools in Australia', 14 August 2007, Melbourne, author's notes.

⁵³ Martin Lengwiler, *op.cit.*, p.197.

⁵⁴ See §11.5 and §11.6, Productivity Commission, *op.cit.*

⁵⁵ See www.iap2.org under Core Values (accessed 7/8/08).

6. Public participation provides participants with the information they need to participate in a meaningful way
7. Public participation communicates to participants how their input affected the decision.

One of the strengths of a 'public participation' approach to innovation is that it can incorporate a large number of disparate stakeholders in the development process. In the examples cited in this paper, they include technologists, pricing analysts, manufacturers, marketers, regulatory bodies, funding institutions, advocacy groups as well as actual and potential users. The ability of a process to bring together and take into account the views and interests of such a large range of stakeholders, while focussing on the decisions that need to be made, and outcomes expected, is a strength, which should form a solid basis for future consumer representation processes.

Conclusion

This paper suggests that consumer and user representation models must undergo more than just incremental improvement, but rather must transform in order to fulfil their mission, which is to bring the benefits of new communications technologies to the widest possible number of people.

Many of these developments are consumer-empowering if utilised appropriately. They have the potential to markedly increase social inclusion and community well-being. The future of consumer consultation in telecommunications, then, is inextricably linked to these advances. Its agenda must be forward looking, focussing on maximising the opportunities for participation in the digital future by all Australians. Effective consumer consultation mechanisms can promote innovation and investment if they work towards assisting consumers to achieve their communications goals and maximise the benefits of the new broadband services.⁵⁶

Transforming consumer representation should be an exciting challenge for both consumer organisations and for industry, to re-invigorate the 'framework for co-creating business and social value'.⁵⁷ All of this will still need knowledgeable, caring, committed groups of consumers, ably representing the best interests of their constituencies, but willing to work within new modes of mutual co-operation amongst themselves as well as with industry and other stakeholders.

⁵⁶ 'Improving telecommunications consumer consultation', Submission by Telstra Corporation Ltd to the Telecommunications consumer stakeholder forum, 1 May 2008, p.5, www.dbcde.gov.au (accessed 10/8/08)

⁵⁷ Darren Sharp & Mandy Salomon, *op.cit.*