Committee: ·

*Tabled Document*

Inquiry: Estimates Additional

Date: 9 Feb 2016

Witness: Chris Chapman

Organisation: ACMA

# The Opening Statement by Chris Chapman, Chairman and Head of Agency (the Australian Communications and Media Authority).

## Senate Estimates – Communications and the Arts Portfolio

### Date – 9th February 2016

Thank you Chairman for that invitation to provide an opening statement although, on this occasion, for me at least, it's really a closing statement.

In just over a fortnight, it will be 10 years since my initial appointment as the inaugural Chair and CEO of the Australian Communications and Media Authority (The 'A.C.M.A.' as we prefer to be called).

I was originally appointed for 5 years by the Howard Government on the recommendation of the then Minister for Communications, Senator Helen Coonan.

I was subsequently re-appointed for a further 5 years by the Gillard government on the recommendation of the then Minister for Communications, Senator Stephen Conroy.

One is sensibly precluded under the ACMA Act from serving more than 10 years.

So I sit here before this Senate Estimates Committee for the 27th time since my first appearance on Tuesday, 23rd May 2006 when Senator Conroy was quick to seize on the inability of our General Counsel, Mr Marcus Bezzi, and myself to provide, without notice, an all-encompassing yet succinct definition of the 'internet'. The Senator's media release followed shortly thereafter and, as a consequence, my initial naivety has been replaced in the main by a more cautious "I'll take that on notice" response!

This, therefore, is my 28th Senate Estimate's appearance and I've been fortunate to have been supported at the table on every occasion by my Deputy Chair and General Managers, with line area expertise in the wings.

We have always prepared assiduously and sought to honour the intended accountability mechanism of Estimates with the "A" team, well-prepared.

I have been fortunate in the extreme to have had the finest of colleagues in support, and they have often led ……. as leadership is, in my long experience, as much about being capable of being led, as actually leading.

To round out some cold, hard but perhaps wearying statistics, I have over these 10 years:

- Seen                              -        6 Prime Ministerships
- Served under  -        5 Communications Ministers
- Served with            -        6 Department Secretaries
- Come before  -        6 Senate Estimates' Committee Chairpersons
- Regulated with        -        15 outstanding authority Members
- Chaired                   -        246 Authority meetings
- Participated in -        56 Authority Strategy Sessions;

And today, as I understand it, I am the longest-serving Agency Head within the Commonwealth's 194 agencies.

1

Respect for the utility of accountability before Estimates has been matched by this agency's fiscal stewardship since its establishment.

Over the decade, there have been no financial dramas, no sudden discovery of unaccounted for costs or any requests for bail-outs by this agency.

The ACMA's appropriations and revenues have amounted to just under $1 billion over this period, although its annual funding has varied substantially within that total funding envelope. In fact, its base funding has actually declined by 18% in nominal terms over that decade.

Its regulatory responsibilities across the four worlds that it has regulated (broadcasting, telecommunications, radiocommunications and the online space) is almost beyond comprehension: it is the national town planner in broadcasting and radiocommunications, it is the spectrum supplier, it is the technical adjudicator in so much of these four worlds, it is the protector of consumer safeguards in the telecommunications space, it is the protector of community safeguards in the broadcasting space, it is the program deliverer in the nuisance communications space and it is this country's representative in a wide array of international meetings and collaborations, most recently leading the Australian delegation to the month-long World Radiocommunications Conference last November.

And for good measure, it is the third largest collector of revenues in the Commonwealth.

The ACMA has had a staff count as high as 623 (at the height of the Digital Dividend initiatives) and today it sits at just on 417 (a 33% reduction).

Notwithstanding the complexity of its multiple roles, the increasing uncertainties of its brief (in light of the realities of digital enablement, and digital disruption), the challenges of Australia's massive geography and the asymmetry of its population's density, the agency has over that decade operated with a net surplus of about $650,000, raised in income nearly 11 times its total operational appropriations, moved the percentage of funds expended on front-line staff from 61% to 74% and secured 10 successive ANAO Certificates of Compliance, all 'unqualified'.

So, as an Agency head, on purely stewardship grounds, I'd like to think: "Mission Accomplished".

But it's on the performance delivery and outputs side of the agency, on the human side (the 'soft skills' side of the agency) that the ACMA is a grossly different outfit to the one I walked into a decade ago – an agency then that was converged in theory but was disparate in locales, cultures, modus operandi and skillsets.

It is an agency that has grown in confidence, come to understand its brief, realised early in the piece that the old paradigms would not address the future world of media and communications (let alone adequately 'bridge' to that future), is executing work plans based on enhanced risk-based assessments, seeking to deliver outcomes rather than reflect on outputs or mere inputs, is working intelligently, seeking to overcome the 'broken concepts' embedded in the four principal pieces of legislation (and the 22 other pieces of legislation to which it responds) by applying 'first principles' thinking where legislative and regulatory discretion allows, is increasingly adopting forbearance and prosecuting 'soft law' approaches.

In essence, it is first communicating and facilitating, before regulating.

And all of that, and more, is but a precursor of the type and style of regulation and regulator that will be required going forward.

Let me remind you of but some of the indicia of the media and comms space a decade ago.

For example, in broadcasting:

- In 2005, the majority of Australians (80%) accessed:

    o free audiovisual content from 3 commercial free-to-air channels and 2 national channels

    o pay audiovisual content from one of two subscription broadcast television services (Foxtel and Austar).

- For the 20% of Australians who were then accessing digital services, there were few services available beyond the 'triplecasting' of the main channel (analog/SDTV/HDTV).

- Today, as a consequence of that rapidly converging environment, Australians now have a broad range of choice of content offerings:

    o Free content is available from:

        - 12 commercial free-to-air channels (with a 13th by the end of this month in view of the benefits of MPEG – 4 technology) and 9 national television channels

        - 4 datacasting channels

        - By the free-to-air networks, 5 'catch-up TV' online services which provide on-demand services and now, increasingly, live streaming content

        - Online services such as YouTube, RedBull TV, Vimeo.

    o Pay content is available from:

        - Subscription broadcast providers (Foxtel, fetch TV) – with some offering their services online without the need for proprietary devices (e.g. Foxtel Play)

        - IPTV services (provided by TPG & Telstra)

        - SVOD services (Netflix, Stan, Presto, Quickflix)

        - Online content stores (iTunes, Google Play)

Thomas Friedman observed in 2011 that many of the things that then informed debates had not even been thought of when he wrote his 2005 international bestselling book The World Is Flat: A Brief History of the Twenty-First Century.

Specifically, he observed:

- Facebook couldn't be found under 'F' in the first edition's index

- Twitter then was a sound

- Cloud was something found in the sky

- 4G was a parking space

- An Application was something you sent to college

- LinkedIn was a prison, and

- Skype was a typo!

Remember, at this time (2006) there were near on 6M internet subscribers in Australia, split about equally between dial – up (at 256 kbits/s) and 'broadband' subscribers.

The situation today, a decade on, represents more than just a step change - the paradigm has shifted. And, as I often say, we're already in a post convergence world.

Again, some further salient facts to underscore the almost incomparable media and comms space today.

As best as I can pull figures together, each day:

- 750K people use mobile phones for the first time

- 600K people per day around the world use the internet for the first time

- 967K new mobile subscriptions are made

- 2M smartphones are sold

- 2.94 extabytes (billion gigabytes) of IP traffic is sent. This figure will pass the one zettabyte threshold annually for the first time ever in 2016. These figures are truly remarkable when placed into perspective with historical levels: global internet traffic comprised of 100 GB per day

- 196.4B emails are sent

- 6.9B photos are uploaded online

- 1M users access social media for the first time via phones or tablets

- 493K people sign up to Facebook (about 6 every second)

- 66 years' worth of footage is uploaded onto YouTube.

So, a consolidated snapshot:

- Traffic from wireless and mobile devices overtook traffic from wired devices in 2015

- More than half of the world's population has a mobile phone

- By 2019, video will comprise 80% of all IP traffic

- Mobile will help to push internet penetration beyond 50% of the world's population during this year.

And where is the agency today against those statistics and dynamics?

The ACMA has been and remains at the cutting edge of a wave of fast-paced technological changes that simply refuse to slacken. In one of its research reports published in the first half of 2008, the ACMA identified six major technology trends that it felt then would have a significant impact on the regulation of the media and communications sector over the next five to 10 years thereafter. The six trends identified were:

- the accelerating pace of change
- diversity in the development of physical infrastructure (including broadband, digital broadcasting, location sensing technologies, intelligent transport systems and satellite services)
- the spread of distributed connectivity through the integration of information processing beyond the desktop into everyday objects and activities
- enhanced content and network management capabilities
- the emerging social web, which was enabling innovation and creativity by users and service providers
- continuing scientific and technological innovation that, in combination, were driving advances in computing power, display technologies, artificial intelligence and nanotechnology.

The observation of these trends was on the money. While not fully worked out in their entirety, they have given useful guidance to the ACMA (and continue to helpfully inform) its navigation of this wave of change.

In the last year or so alone we have seen the onrushing tide of innovation bring us the Apple Watch and wearables generally; virtual reality viewers; 3-D printers that are also scanners; drones; the explosion of the ultra-high-definition format (4K) for televisions and gaming; incredible high-resolution screens on phones; faster mobile networks. You can now buy a fast, high-end computer that fits in your pocket, complete with one terabyte of storage, a low-power central processing unit and large solid state drive - the list goes on.

And now I suspect it won't be long before we witness the massive and all-encompassing morphing of the Internet of Things, as it must, into the Internet of Everything. While the Internet of Everything may still be a little way off, we are nevertheless clearly witnessing significant digital disruption (critically enabled by broadband) bringing profound and irreversible disruptive effects not just for communications and media, but into the 'real' world, the world of banking, insurance, manufacturing and, as we have seen, even the gritty worlds of mining and cattle farming – and driving taxis.

The scope and scale of this digital disruption clearly should give, and is giving, government, the legislature and policy makers cause to pause and think about what it will actually means to be a 'communications regulator' in the future.

But before I conclude by positing some views on that, perhaps I can be forgiven for looking back, to see what it has meant to be a communications regulator over the last decade. To recount the entire contents of our range of activities and what we have done or delivered would literally fill a book.

Let me take a quick tour of some of these highlights under the three major heads of functional responsibility I often use to frame our work:

1. Deliver on the '**day job**' of the agency:

   a. ACMA's contribution to the continuous improvement of the regulatory framework can be found in our approach to numbering. Between 2010 and 2012, the ACMA examined a wide range of issues related to the regulatory framework for telephone numbers that emerged as a result of deep changes in industry structures, service offerings and consumer behaviour.

   b. The ACMA's 'Reconnecting the Customer' Public Inquiry into customer service and complaints - handling in the telecommunications industry and the subsequently delivered new TPC Code. This initiative has helped reset the norms of behaviour and customer service for the industry. Key industry players have also stepped up to take customer service seriously and all this is now being dramatically reflected in the TIO statistics (off nearly 40% from their highs).

   c. The recently concluded auction for the regional 1800 MHz band where the intent was to ensure that this valuable spectrum is utilised for its highest value use.

   d. The ACMA's Project HELM is changing the way the agency works and interacts with its radiocommunications licensees, culminating a long effort to totally replace the elderly radiocommunications licensing and frequency assigning toolsets.

2. Deliver **specific programs** and **activities** on behalf of the government of the day:

   a. Delivering online consumer and citizen protection, one example being the Australian Internet Security Initiative (AISI), a unique program that sees the ACMA partnering with volunteering ISP's to address the threat that malware presents. Another example, primarily focussed on information and skills – building, has been our Cybersafety programs. This highly successful program in the area of child online safety has recently been passed over to the Children's E-safety Commissioner, resourcing for whom is still serviced by the ACMA.

   b. In 2014 the ACMA finalised its Contemporary Community Safeguards inquiry. The inquiry was a '1st principles' look at what code-based safeguards were enduring; what were still considered necessary for broadcasters operating in a networked society.

   c. From 2008 to 2010, the ACMA conducted a review of the 400 MHz band with a view to reducing congestion, facilitating new technologies and providing harmonised spectrum for government use of the band.

   d. The commencement of the 700MHz spectrum licences on 1 January last year marked the virtual completion of a decade-long, micro-economic reform which bridged 3 important tranches of work:
      * the completion of the switchover to digital television, which resulted in the cessation of analog television services;
      * the clearing of all digital television services from the identified digital dividend band - commonly referred to as 'the restack'; and
      * the allocation of the cleared spectrum (the 700MHz) to new communications' users, via an auction.

3. In tendering objective and independent **advice** to the government of the day in matters related to areas of ACMA responsibility and expertise. We have done this consistently, especially in the technical spheres of numbering, standards and spectrum management.

And finally and more generally, we have shone a spotlight on the opportunities for modern regulatory 'best practice'. The ACMA has for the best part of the decade been advocating the desirability of taking a long hard look at the current regulatory arrangements and modernising them. We framed the question of the future of regulation in communications and media in three 'tent-pole' thought leadership pieces:

a.   Broken Concepts, originally published in August 2011 (updated in 2013);

b.   Enduring Concepts, published in November 2011; and

c.   Connected Citizens, released in June 2013.

Taken together, these have framed the ACMA's view that it is time to consider the development of a unified coherent regulatory framework for media and communications and thus, implicitly, a legislative structure to support that.

So the ACMA has delivered a proud, diverse and hugely accomplished decade of work, and remained relevant – but I would think that!

I concluded my speech at CommsDay last year with some thoughts on the rhetorical question: "What, based on my decade's experience, can I tell you about the future?". To conclude, I repeat them here:

- There is a need for a flexible regulatory framework – it needs to be appreciated that the regulator can't (or shouldn't) do everything;
- However, this regulatory framework should also be unified and coherent with respect to the layered and inter-linked nature of the media and communications industries – in my view, such a framework is the best way of recognising the necessity of appreciating and exploiting synergies (and avoiding the duplication embodied in the strategic logic which established the ACMA);
- A necessary expectation for the future is that regulation delivers its most powerful and most friction-free results when industry steps up and meaningfully owns the goals of consumer satisfaction and citizen protection;
- A recognition of the enduring merits of partnership (ranging from our cyber and internet safety relationships to our various outsourcing programs); and,
- Finally, a clear-eyed recognition that none of us can ever rest on our laurels in this constantly changing world; just when you think you have 'got it', someone, somewhere in our global networked world will have a disruptive idea that will shortly mean you simply don't 'get it' anymore!

---

From this statement this morning, I hope you have discerned this:

1.   I was fortunate in the extreme to have been offered this role by Helen Coonan, and that it was re-affirmed by Stephen Conroy;

2.   Like my father, his father and his father before him (Sir Austin Chapman, the real "Father of Canberra"), I have had the opportunity to make a small but hopefully useful contribution in our national interest.

3.   It's been an unqualified privilege - and I exhort anyone who has not been on the inside of the public service to find an opportunity to do so. Public servants are wonderful, caring, intelligent and committed Australians (occasionally, so sadly, so pathetically stigmatised as 'grey cardigan wearers') who, to paraphrase Theodore

Roosevelt from his famous 'Citizenship in a Republic' speech, 'actually strive to do the deeds; who know great enthusiasms, the great devotions; who spend themselves in a worthy cause.'

While, granted, difficult to measure, my decade – long experience is that public servants do create substantive and meaningful public (and national) value.

I move on shortly to take up the Presidency of the International Institute of Communications, the London-based independent, policy forum for the converging telco, comms, media and technology industries.

I am the first President in the IIC's 47 year history to not be drawn from the North Americas or Europe. My sense is that that fact is ultimately an acknowledgement of the vitality and dynamism of the Australian marketplace, the intellectual smarts in this space in this country, a very overt acknowledgement of the re-weighting of importance towards the Asian Pacific zone ("Region 3" in ITU speak) and the consistent innovation, policy smarts and reputational standing of the staff of the ACMA, my family for the last 10 years.

So while my focus will shift elsewhere, I know that the ACMA, under its strong leadership, will continue to front up to Senate Estimates, cognisant of the important accountability mechanism it is and will engage with members professionally, honestly, and with respect – and I'm sure that members will reciprocate.

Thank you Chairman.

-----------------------------------------------------------------------------------------------