

MAJOR COMPLAINT CATEGORIES

INDUSTRY CODES | MOBILE PREMIUM SERVICES | SYSTEMIC ISSUES | MEMBER COMPLAINT STATISTICS

WHAT IS A CODE?

A code is a statement of rules, procedures and principles developed by the telecommunications industry's peak representative body, Communications Alliance, as the benchmarks of industry best practice.

Some industry codes give guidance as to how the various carriage service providers should work together to provide telecommunications services to consumers. Other codes focus on the relationship between customers and their service providers. These code types are respectively referred to as 'Operational Codes' and 'Consumer Codes'.

For a code to be recognised by the TIO, the ACMA must have formally registered it. It is not necessary for a TIO member to have become an official signatory of a particular code for a code issue to be raised against them during a TIO investigation.

What codes do we use?

We investigate and report against these industry codes:

Telecommunications Consumer Protections (TCP) Code	An amalgamation of what used to be six separate consumer codes, with chapters addressing billing, pricing, terms and conditions, contracts, transfers, credit management and complaint handling
Priority Assistance for Life Threatening Medical Conditions Code	An operational code aiming to ensure that persons with life threatening medical conditions have constant and unrestricted access to fixed line telephone services
Handling of Life Threatening and Unwelcome Calls Code	An operational code specifying the processes which must be followed by a carriage service provider where their customer is making or receiving life threatening or unwelcome phone calls, e-mails or text messages.
Mobile Number Portability Code	An operational code which guides the successful transfer of mobile telephone numbers between different carriage service providers
Local Number Portability Code	An operational code that provides for the quarantine and release of disconnected landline service numbers, and the transfer of those landline numbers between different telecommunications networks
Connect Outstanding Code	An operational code outlining the appropriate course of action where a customer cannot connect a landline service at their new home because the old tenant did not disconnect before leaving
Calling Number Display Code	A consumer code concerning the minimum standards for calling number display services, and the use of calling line identification information
Pre-Selection Code	An operational code which specifies the process by which a customer's long distance billing can be made separate from their local call billing

HOW DO WE USE CODES?

The TIO uses the rules, principles and guidelines contained within the industry codes to:

- evaluate consumer complaints
- critically assess the evidence supplied during an investigation
- measure the fairness and reasonableness of proposed outcomes
- explain the reasons behind our decisions
- educate members as to their obligations
- keep regulatory bodies and other concerned parties informed as to the performance of the industry against the standards which have been set in place.

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HOW DO WE CAPTURE CODE DATA?

The TIO captures code data while it performs its primary function, that is, the investigation and resolution of individual consumer complaints. We capture code data in two ways:

1. When a TIO officer logs a complaint they do so using a set of pre-approved complaint descriptors, or keywords. The selection of specific combinations of these keywords will cause code-related questions to 'pop-up', and the TIO officer's answers (based on the information provided by the complainant) to those questions will determine whether a 'possible code issue' will be automatically populated into our complaint handling database. This process of capturing possible code data is applied at levels 1 and 2.
2. When a complaint is escalated for formal investigation at level 3 or 4, a TIO officer will write to the member regarding the possible code issues that may be relevant to the complaint, and will invite that member to demonstrate with evidence whether they have complied with the particular code provisions. When the investigation is complete, the TIO officer will assess all available evidence to determine whether a breach of the code has occurred. If yes, a 'confirmed code breach' will be recorded. The TIO does not record any possible code issues at levels 3 and 4.

WHAT DO WE DO WITH CODE DATA?

At the end of each month, quarter and financial year, we send our code data to stakeholders including the ACMA, ACCC and Communications Alliance. We also provide company-specific code data to a number of our members, so that they may use this information to improve their internal complaint handling processes.

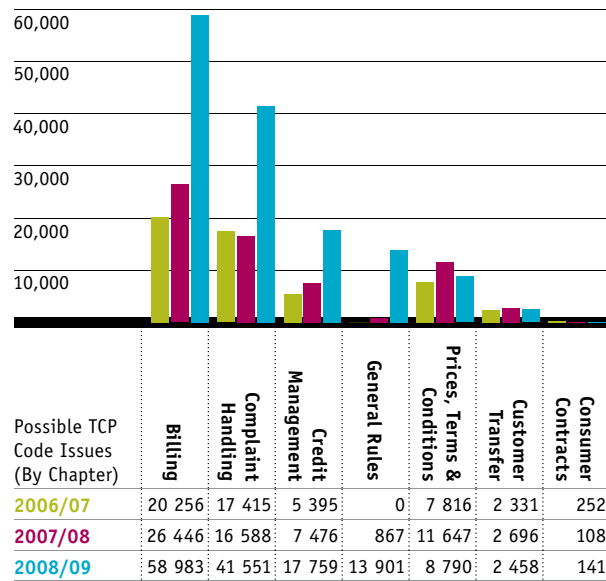


Figure 23 Possible TCP code issues (by chapter)

Note: 'General Rules' includes the use of plain language, quality of information, access to information, complying with the law and dealing appropriately with customers.

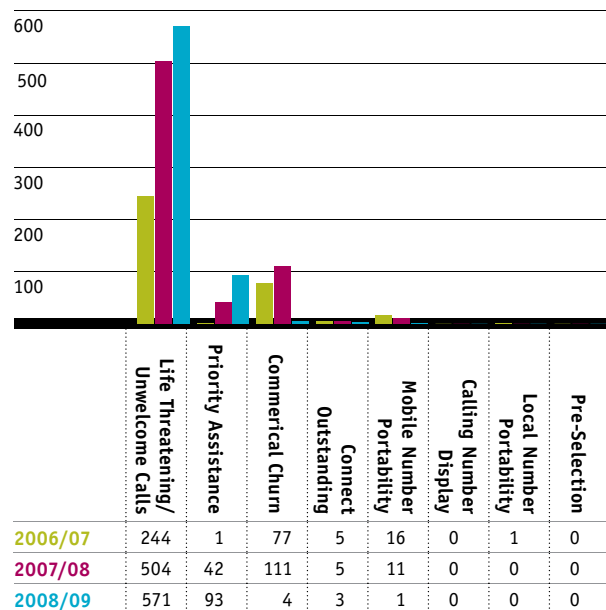


Figure 24 Other possible code issues

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Code Name	2006/07	2007/08	2008/09
Billing (ACIF and TCP)	20 256	26 446	58 983
Complaint Handling (ACIF and TCP)	17 415	16 588	41 551
Credit Management (ACIF and TCP)	5 395	7 476	17 759
General Rules (TCP Only)		867	13 901
Prices, Terms & Conditions (ACIF and TCP)	7 816	11 647	8 790
Customer Transfer (ACIF and TCP)	2 331	2 696	2 458
Life Threatening/Unwelcome Calls	244	504	571
Consumer Contracts (ACIF and TCP)	252	108	141
Priority Assistance	1	42	93
Commercial Churn	77	111	4
Connect Outstanding	5	5	3
Mobile Number Portability	16	11	1
Calling Number Display			
Local Number Portability	1		
Pre-Selection			
TOTAL	53 809	66 501	144 255

Table 19 Possible code issues by category

Code Name	2006/07	2007/08	2008/09
Complaint Handling (ACIF and TCP)	100	109	1 211
Billing (ACIF and TCP)	97	96	470
Credit Management (ACIF and TCP)	40	80	438
Prices, Terms & Conditions (ACIF and TCP)	47	90	192
General Rules (TCP Only)			114
Customer Transfer (ACIF and TCP)	42	22	68
Priority Assistance	1		13
Connect Outstanding	1		12
Consumer Contracts (ACIF and TCP)	17	15	7
Life Threatening/Unwelcome Calls		1	5
Calling Number Display			2
Mobile Number Portability	2	1	2
Local Number Portability			2
Pre-Selection			1
Commercial Churn	1		
TOTAL	348	414	2 537

Table 20 Confirmed code breaches by category

During the 2008/09 year, we completed some investigations for which the relevant codes have now been de-registered by the ACMA. Accordingly, this annual report contains some information pertaining to the following codes:

- *Commercial Churn Code*
- *ACIF Billing Code*
- *ACIF Credit Management Code*
- *ACIF Complaint Handling Code*
- *ACIF Consumer Contracts Code*
- *ACIF Customer Transfer Code*
- *ACIF Prices, Terms and Conditions Code.*

Telecommunications Consumer Protections Code chapters and their deregistered ACIF Code equivalents have been combined in the above tables.

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MOBILE PREMIUM SERVICES

A mobile premium service is one through which customers can access content, such as horoscopes, mobile ring tones, wallpapers, weather information and chat services, with their mobile phone. While fees for these services are charged by the customer’s mobile provider on their mobile or telephone account, usually at higher rates than normal calls or messages, the premium services themselves are generally provided by a separate content provider.

Mobile premium services operate on their own number ranges and typically start with the following prefixes: 191, 193, 194, 195, 196, 197 or 199. Services that operate on these ranges are regulated under rules devised by ACMA, set out in the *Telecommunications Service Provider (Mobile Premium Services) Determination 2005 (No.1)* (Cth).

Under the Determination, mobile carriage service providers and content service providers were required to develop a self-regulatory scheme that established clear rules about what information must be provided to users of premium mobile services. These rules include providing users with clear and transparent information about the costs and terms and conditions on which mobile premium services are offered and about handling of complaints about mobile premium services.

The Mobile Premium Services Industry Scheme (MPSI Scheme)

The TIO, as the nominated escalated complaints handling body under the MPSI scheme, began recording mobile premium services complaints on 1 December 2006. As the TIO’s power to investigate MPSI complaints comes from the MPSI scheme rather than the TIO scheme, we record and report on MPSI complaints separately to other types of complaints. This financial year is the second and final full year of the MPSI scheme it was replaced on 1 July 2009 by the new *Mobile Premium Services Code*, an industry code issued by Communications Alliance.

MPSI complaints and complaint issues

This year, complaints recorded under the MPSI scheme increased by 12.6% compared to 2007/08. Complaint issues under the MPSI scheme increased by 28.7%.

	Complaints	Complaint issues
2008/09	15 653	28 809
2007/08	13 899	22 391
2006/07 (1 December 2006 to 30 June 2007)	7 086	10 083

Table 21 MPSI scheme, complaints and complaint issues

Categories of MPSI complaint issues

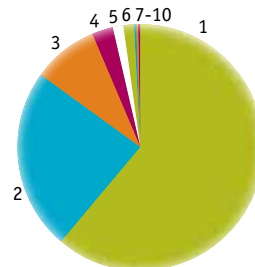
This year, 61.3% of MPSI complaint issues (68.4% in 2007/08) were about disputed usage charges. These included claims by consumers that:

- the disputed usage charges were incurred for services not requested
- opt-out requests were either not followed up or refused
- the disputed charges related to services for which prices, terms and conditions were not disclosed.

There were several reasons for claims by consumers that they were charged for mobile premium services that they did not request. These included consumers believing that they requested a one-off service and not an ongoing subscription or where they denied any knowledge of requesting such a service.

A total 32.6% of MPSI complaint issues in 2008/09 (25.6% in 2007/08) were about claims of poor customer service or complaint handling. These included claims by consumers that service providers:

- failed to assist consumers to resolve their complaints
- failed to refer them to the TIO
- were unable to be contacted.



Issue Type	No of Issues
1 Disputed Usage Charges	17 661
2 Complaint Handling	6 832
3 Customer Service	2 552
4 Information / Advertising	803
5 Credit Management	378
6 Refund / Credit	363
7 Access to Content	89
8 Other	83
9 Disputed Admin Charges	37
10 Contracts	11
Total	28 809

Figure 25 MPSI complaint issues

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	2006/07	2007/08	2008/09
Disputed usage charges (total)	7 482	15 293	17 661
Disputed usage charges (service not requested)	6 040	12 325	13 626
Disputed usage charges (opt-out not actioned)	919	1 585	1 965
Disputed usage charges (prices, terms and conditions not disclosed)	198	1 054	1 710
Dispute usages charges others	325	329	360
Complaint handling (total)	1 664	3 942	6 832
Complaint handling (failure to assist)	244	2 660	5 901
Complaint handling (failure to refer to the TIO)	1 143	1 054	607
Complaint handling (others)	277	228	324
Customer service (total)	112	1 793	2 552
Customer service (unable to contact)	98	1 648	2 274
Customer service (discourtesy)	14	145	278
Information/advertising	382	479	803
Refund/credit	270	435	363
Credit management	93	261	378
Others <i>include complaints about alleged breaches of privacy, disputes about administration charges and access to prohibited content, contracts</i>	80	188	220
Total complaint issues	10 083	22 391	28 809

Table 22 MPSI complaint issues by category

The data for the MPSI Scheme during 2006/07 starts in December 2006)

MPSI Scheme Possible Issues and Confirmed Breaches

The TIO recorded a total of 22 283 issues against specific clauses of the MPSI Scheme in 2008/09. This represents a 29.5 per cent increase on the number we recorded last year.

MPSI Scheme	2007/08	2008/09
Possible issues	17 180	22 192
Confirmed breaches	24	91
Total	17 204	22 283

Table 23 Possible and confirmed MPSI code breaches

Of the 22 283 MPSI Scheme issues recorded, 91 were assessed at Level 3 or Level 4 and confirmed as actual breaches of the MPSI Scheme. The TIO did not formally investigate the remaining 22 192 MPSI Scheme possible issues as these related to Level 1 and Level 2 complaints.

The MPSI Scheme clauses most frequently identified in 2008/09 as giving rise to possible issues are Clauses 5.3.1 and 5.3.2. These clauses pertain to the provision and billing of mobile premium services where the consumer claims that they did not request these services. The TIO recorded 11 684 possible issues against these clauses in 2008/09, 29 of which were confirmed as breaches following formal investigation.

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IMPORTANT NOTE RELATING TO HUTCHISON 3G AUSTRALIA PTY LTD

In the TIO's 2008 *Annual Report* we incorrectly published a case study relating to Hutchison 3G Australia Pty Ltd about 'non-application of bonus credits on pre-paid mobile services'. As we did not formally investigate this complaint under our systemic procedure, the issue should not have been included in the case studies presented.

OUR POWERS TO INVESTIGATE SYSTEMIC ISSUES

Our constitution provides special powers to investigate complaints that are systemic in nature. Clause 5A of the *TIO Constitution* defines a systemic problem as:

'... a problem with or the failure of a system, process or practice of a member that causes detriment (that is not trivial) to a significant number or a class of end-users of a carriage service and which arises from a complaint that is within the jurisdiction of the TIO...'

During 2008/09 we did not raise any formal systemic investigations. However, a number of potential systemic problems were raised and resolved with members.

The case studies below are examples of issues we looked into during 2008/09.

Back billing of charges

We were made aware of an issue where a number of consumers were being billed for charges and line rental which were incurred more than 190 days before the bills were issued. Under the *Telecommunications Consumer Protections Code* providers must not bill for charges older than 190 days. Where charges are billed over 190 days, we expect that the provider will waive them.

The TIO raised a concern over this billing practice with the provider and was told that the delayed charges were caused by processing problems relating to its call detail records. We were informed that a manual processing problem caused the delay in the charges. The provider said that in order to resolve the issue it had changed its billing process from manual to automatic. Further, the provider agreed to waive any charges billed over 190 days. The TIO also asked the provider to consider any financial hardship issues associated with any charges billed close to 190 days and the provider agreed to do this on a case-by-case basis.

We closed the potential systemic problem when we were satisfied that there were no further incidences of back billing and were satisfied that the member had adequately resolved the issue. We also recorded a breach by the member under the back billing provision in the *Telecommunications Consumer Protections Code*.

Advice at the point of sale about early termination fees

We received a number of complaints from consumers approached by a sales company which was acting on behalf of a telecommunications provider (the Telco). The TIO was informed that the sales company was telling consumers that if they transferred their service to the Telco, it would pay any early termination fees they incurred from their previous service provider.

The TIO was made aware of a dispute between the Telco and the sales company acting on its behalf, which resulted in the Telco not immediately paying the early termination fees it had promised to pay. As a result of this dispute and the associated delays, various service providers had begun taking credit management action against the customers who had transferred their services to the Telco.

In cases like these, the TIO's position is that a telecommunications provider is responsible for any representations made by sales companies acting on its behalf. The TIO explained this position to the Telco, and after some discussions it agreed to pay all of its customer's outstanding early termination fees. The Telco also agreed to allow consumers to terminate their contract without financial penalty, due to the advice they received when they initially agreed to transfer their service to the Telco.

Withdrawal of a rate plan feature

A potential systemic problem was brought to our attention when a consumer complained about a provider suddenly withdrawing a specific call plan feature because they had exceeded the threshold of a fair use policy. The consumer claimed that they were given little warning of the provider's decision to withdraw the call plan which resulted in the consumer getting a significantly higher bill.

The provider argued that it was able to change a plan due to its fair use policy but the consumer argued that they were not aware of this policy and in addition were not warned of the rate plan feature being withdrawn prior to it being withdrawn. The TIO raised a number of concerns with the provider about how it advertised the fair use policy to its customers as well as issues relating to procedures for withdrawing the call plan feature. The provider agreed to make some changes to its policy, including putting in place a notification process which involved sending out warning letters to customers as well as educating its customers about the rate plan feature and including details of the plan's threshold in its terms and conditions.

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MEMBER COMPLAINT STATISTICS

Member specific complaint statistics are published by the TIO for all members of the Telecommunications Industry Ombudsman scheme and the Mobile Premium Service Industry scheme who have received 25 complaints or more during the course of the financial year.

It is important that readers bear in mind the varying size of the TIO's member organisations in order to avoid making inaccurate comparisons. The TIO does not standardise its member-specific complaint statistics.

Complaints and complaint issues

Four tables are presented here – two for the TIO scheme and two for the Mobile Premium Services Industry scheme.

The tables headed Complaints by Issue detail the issues raised in complaints. As one complaint may raise more than one issue there are usually more issues than complaints raised against a member. Members are charged according to complaint numbers, not according to the number of issues raised.

The tables headed Complaints by Level detail the levels at which these complaints were resolved. This gives an indication of how quickly the company was able to resolve complaints raised by the TIO.

It is important to note that not all complaints are raised at level 1. Land access objections, for example, are raised at level 4 from the outset, due to the complexity and time-consuming nature of these complaints.