



11 December 2013

Access to Justice Arrangements
Productivity Commission



Dear Commissioners

Productivity Commission Inquiry: Access to Justice Arrangements

Thank you for giving the Telecommunications Industry Ombudsman (TIO) the opportunity to provide input into the Productivity Commission's Inquiry on *Access to Justice Arrangements*.

ANZOA submission to the Productivity Commission's Inquiry

The TIO notes, and has provided input into, the Australian and New Zealand Ombudsman Association (ANZOA) submission which is being tendered to the Productivity Commission's Inquiry. The ANZOA submission outlines the evolution of Ombudsman offices in Australia and includes information about the valuable contribution made by Ombudsman offices in the efficient and effective resolution of a substantial volume of civil disputes.

The TIO supports the ANZOA submission, particularly in terms of the value and relevance of the information it provides on how Ombudsman offices significantly contribute to improving access to civil justice in Australia.

TIO submission to the Productivity Commission's Inquiry

The TIO encloses our submission in response to the Productivity Commission's *Access to Justice Arrangements Issues Paper*. Our submission outlines:

1. an overview of the TIO
2. how we contribute to improving access to justice through our role in resolving disputes between telecommunications consumers and service providers
3. how we contribute to improving access to justice through our other roles, namely:
 - our expert and independent voice in the information we provide to industry, the community and regulators
 - our active engagement with industry, regulators and other stakeholders to improve industry standards and practices

"... providing independent, just, informal and speedy resolution of complaints"

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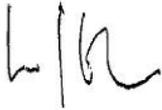
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4. the role of internal dispute resolution mechanisms within organisations as a further avenue for improving access to justice
5. our recommendation as to how access to justice – using informal pathways such as industry Ombudsman schemes – can be strengthened, and
6. supporting case studies.

In summary, the TIO supports the ANZOA submission to the Productivity Commission and trusts that the TIO submission will assist the Productivity Commission in its inquiry into access to justice arrangements in Australia.

If you require any further information, please contact [REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Cohen', written in a cursive style.

Simon Cohen
Ombudsman



Telecommunications Industry Ombudsman

Telecommunications Industry Ombudsman: Submission on the Productivity Commission's Access to Justice Arrangements Issues Paper

December 2013



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Introduction

The Telecommunications Industry Ombudsman (TIO) welcomes the opportunity to comment on the Access to Justice Arrangements Inquiry outlined in the Productivity Commission's Issues Paper dated 16 September 2013.

Industry-based Ombudsman schemes play a key role in making Australia's civil justice system accessible given that most Australians attempt to resolve civil disputes through informal mechanisms.¹ The TIO demonstrates this through our four roles within Australia's telecommunications industry:

- resolving disputes
- improving telecommunications services
- being an independent voice, and
- leading by example.

We set out in this submission the following information in support of our contribution to the Productivity Commission's inquiry into improving access to Australia's civil justice system:

1. an overview of the TIO
2. how we contribute to improving access to justice through our role in resolving disputes between telecommunications consumers and service providers
3. how we contribute to improving access to justice through our other roles, namely:
 - our expert and independent voice in the information we provide to industry, the community and regulators
 - our active engagement with industry, regulators and other stakeholders to improve industry standards and practices
4. the role of internal dispute resolution mechanisms within organisations as a further avenue for improving access to justice
5. our recommendation as to how access to justice – using informal pathways such as industry Ombudsman schemes – can be strengthened, and
6. supporting case studies in **Appendix A**.

¹ Productivity Commission, *Access to Justice Arrangements Issues Paper* (2013), accessed on 10 October 2013 at http://www.pc.gov.au/data/assets/pdf_file/0006/128085/access-justice-issues.pdf, page 3.

Part 1: About the TIO

Background

The Telecommunications Industry Ombudsman (TIO) is authorised under Part 6 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the TCPSS Act) to provide a free and independent dispute resolution service for small business and residential consumers in Australia who have a complaint about their telecommunications services.

We aim to resolve these complaints quickly in a fair, independent and informal way, having regard not only to the law and to good industry practice, but also to what is fair and reasonable in all the circumstances. Before the TIO becomes involved in a complaint, we ask if the consumer has given the service provider an opportunity to consider the complaint.

The TIO is guided by and is committed to the principles of accessibility, independence, fairness, accountability, efficiency and effectiveness as set out in the [Benchmarks for Industry based Customer Dispute Resolution Schemes](#) (the Benchmarks).

Established in 1993, the TIO has proven to be an essential component of the consumer protection regime within the telecommunications industry. We help thousands of consumers each year resolve complaints with their telecommunications service providers at no cost to the consumer. We also help many service providers who are members of the TIO Scheme improve their complaint handling skills, processes and procedures to provide better outcomes for their customers.

Functions and powers

The specific powers and functions of the TIO are drawn from a number of different sources, including:

- the TCPSS Act, which provides the legislative basis for the TIO's existence and gives us the power to investigate, make determinations and give directions on complaints about telecommunications services by the end users of those services. This Act also requires each carrier and all eligible carriage service providers to become members of, and comply with, the TIO Scheme.
- the *Telecommunications Act 1997*, which enables the Ombudsman to have functions and powers conferred upon him or her by Industry Codes that are registered with the Australian Communications and Media Authority (the ACMA). Where we have accepted conferral of power under a particular registered Industry Code, we have the power to receive, investigate, facilitate the resolution of, make determinations and report on complaints by consumers about matters arising under that Industry Code.
- the *Telecommunications Act 1997*, together with the *Telecommunications (Low Impact Facilities) Determination 1997* and the *Telecommunications Code of Practice 1997*, which give us the power to handle objections from owners/occupiers about land entry, installation of low impact facilities and maintenance activities by carriers.
- the [TIO Memorandum and Articles of Association](#), which establishes TIO Limited as a public company limited by guarantee that is funded by its Members. It also enables the creation and

amendment of the TIO Constitution and binds the TIO and its Members to the terms of the TIO Constitution².

- the [TIO Constitution](#), which sets out the jurisdiction, powers and functions of the Ombudsman. It also sets out the criteria for the investigation of systemic issues, describes the responsibilities of the TIO Council and Board, and specifies which of the Ombudsman's powers can be delegated to TIO staff.

Commitment to the Benchmarks

The Benchmarks have an integral role at the TIO and guide a range of our operational activities³. We briefly outline below the way the TIO employs the Benchmarks in our daily operations, complaint handling and resolution.

Accessibility

We continue to improve the awareness of and accessibility to our office.

Two years ago, we introduced a new, more user-friendly website that has seen an increasing number of consumers report their complaints to the TIO using the online channel. During periods of high demand, our website attracts more than 3,500 visitors daily; it is a critical entry point to our office.

To ensure we are as accessible as possible to consumers with different needs, we make our services available by telephone, online, email, mail, in person, by teletypewriter machine, and through an interpreter service. Following targeted awareness raising activities among cultural intermediaries, we have seen increases in the number of consumers accessing our office through the interpreter service. Importantly, there is no monetary cost to the consumer, including when they submit a complaint through the interpreter service.

Enhanced awareness of the TIO within the community remains a focus of our three-year strategy, which includes initiatives to increase outreach activities targeting young people and Indigenous communities and to improve our online presence and accessibility. We ensure our [Outreach program](#) is a robust one, and reaches out to as many different communities as possible – in 2012-13 we attended or participated in 72 different outreach events⁴. Our Outreach program helps us raise awareness about how we can help resolve complaints between consumers or small businesses and their telecommunications providers.

Some examples of how we improve awareness of and access to the TIO include:

- strengthening networks with Indigenous consumers including remote communities, and agencies working with Indigenous consumers
- working with staff from agencies representing people with disabilities to develop a new disability action plan
- providing information factsheets on the TIO's website in 31 languages other than English

² See clauses 12.13 and 12.14 of the [TIO Articles of Association](#).

³ We recently highlighted our application of the Benchmarks in our [May 2013 submission](#) to the Commonwealth Consumer Affairs Advisory Council's (CCAAC) [Review of the Benchmarks for Industry-based Customer Dispute Resolution Schemes](#).

⁴ See TIO Annual Report 2012-13 at <http://annualreport.tio.com.au/engagement/equitable-access>.

- for the cost of a local call, consumers who speak another language can use the Translating and Interpreting Service (TIS) to raise their telecommunications dispute with the TIO
- consumers who are deaf or have a hearing or speech impediment may contact the TIO through the National Relay Service and Teletypewriter, and
- designing the TIO's website according to Web Content Accessibility Guidelines (WCAG) 2.0 to make the information accessible to the widest range of people.

The results of our September 2012 consumer awareness survey indicates that consumer awareness of the TIO has doubled – with 33 per cent unaided awareness and 57 per cent aided awareness in 2012 compared to 15 per cent unaided awareness and 36 per cent aided awareness in 2008⁵.

Independence

Independence is critical to an Ombudsman office and is a fundamental benchmark for the TIO.

Our staff are not answerable to, or selected by, scheme members. The Ombudsman does receive advice and guidance on the TIO's policy approach to handling complaints from the TIO Council, which comprises a balance of industry and consumer representatives.

The TIO is funded by the carriers and carriage service providers that are required to be TIO members. Fees are levied only against those companies about which the TIO receives complaints, and on the basis of the number of complaints registered (volume related costs) and a proportionate share of overhead costs (operating costs), capital expenditure or special levies.

Our [funding model](#) is transparent, ensures that consumers do not have to pay to access our services, and charges service providers proportionally for the complaints we receive from their customers. Importantly, the fees the TIO charges reflect the cost of the services we deliver and we operate on a not-for-profit basis. There is therefore no element of penalty or fine for participating organisations.

Additional safeguards for our independence lie in the regular review of the TIO Scheme. Clause 19 of the [TIO Articles of Association](#) requires the TIO Board to commission the regular review of the TIO Scheme every three years. A proposed amendment to the TCPSS Act⁶ will introduce new requirements for the regular and independent review of the TIO every five years, and to make public those reviews and the responses by the TIO. These proposed amendments are the result of the recommendations in the Department of Communications' [Reform of the Telecommunications Industry Ombudsman report May 2012](#).

The TIO has been the subject of and independently undertaken a number reviews in recent years. These reviews have either been part of a wider telecommunications focus on specific areas, or a targeted assessment of the TIO and its operations. They include:

- [KPMG Review of the Telecommunications Industry Ombudsman Scheme - Summary \(June 2011\)](#)
- [ACMA's Reconnecting the Customer Report – September 2011](#) (see Chapter 9)

⁵ See the results of the TIO Consumer Awareness Survey 2012 published in the [February 2013 TIO Talks](#) and on the TIO website at <http://www.tio.com.au/publications/blog/consumer-awareness-of-tio-at-all-time-high>.

⁶ See [Telecommunications Legislation Amendment \(Consumer Protection\) Bill 2013](#) – lapsed when Parliament was prorogued in September 2013, although we understand that this Bill is to be proceeded in the forthcoming session of Parliament in November 2013.

- [Reform of the Telecommunications Industry Ombudsman Scheme - Report \(May 2012\)](#) (see also the TIO responses to this report in our [September 2012](#) and [May 2013](#) submissions).

The TIO is accountable to all stakeholders within the telecommunications industry and as such, we take our responsibilities in relation to best practice and continuous improvement seriously. We have implemented or are in the process of implementing the recommendations that have been made as part of these reviews, including⁷:

- the proposed move to a unitary governance structure
- changes to our jurisdiction
- improved systemic investigation procedures
- improved reporting of TIO complaint statistics, and
- changes to our complaint handling procedures when dealing with non-compliant behaviour by telecommunications providers.

Fairness

Transparent and fair decision-making is central to our role.

We achieve this through publishing clear and transparent [Complaint Handling Procedures](#) (CHPs) which outline how we deal with complaints, and set expectations around timeframes involved. The CHPs provide a summary and framework of the methods the TIO uses when receiving, classifying, handling, investigating, and resolving complaints.

Where a consumer or participating organisation believes that we have not followed the CHPs during the handling of a complaint, they have the option to ask for the complaint to be reviewed. This is a critical aspect of applying the principles of procedural fairness named as a key practice in the fairness Benchmark.

We also publish [Position Statements](#) which outline our view on resolving particular types of complaints. TIO investigations staff frequently use and refer to Position Statements to give consumers and service providers an insight into the types of information we consider relevant in a particular complaint and the likely outcome we would consider fair and reasonable. Position Statements cover all main complaint types including billing and payments, credit management, contracts, connection and faults, and privacy.

Accountability

We report on the substantial number of consumer complaints that we receive each year, in a clear and informative way.

In our [online annual report](#) we inform stakeholders not only of the volume of complaints we have received, but also the extent to which the TIO is required to conciliate or investigate those complaints. We also provide case studies about matters we have handled that give participating organisations, regulators and other community stakeholders good visibility of the types of complaints we deal with each day.

⁷ See TIO responses to the Department of Communications' [Reform of the Telecommunications Industry Ombudsman report May 2012](#) in our [September 2012](#) and [May 2013](#) submissions.

As well as our annual report, we provide the community with visibility of complaints data in our quarterly [TIO Talks publication](#).

We also provide a comprehensive suite of monthly reports to assist service providers to identify key drivers and complaint trends that may require their attention. In addition, we give our key stakeholders – the ACMA, the Australian Competition and Consumer Commission (ACCC), Communications Alliance (CA) and the Australian Communications Consumer Action Network (ACCAN) – de-identified data about our complaints each month to keep them informed about key complaint trends in the telecommunications industry.

Looking ahead, the TIO has as one of its strategic objectives the review of all published information to ensure that we are providing the most useful and informative material we can.

Efficiency

The processes we have in place ensure that we are delivering as efficient a service as possible, for both consumers and telecommunications providers.

We recognise the importance of resolving complaints quickly and effectively and, to this end, we have established timeframes for participating organisations to respond to, and resolve, individual complaints. Each year, we report on our performance in meeting these timeframes⁸.

The bulk of consumer complaints to our office are resolved at the first or 'referral' stage of the complaints handling process, within ten business days. For matters that cannot be resolved through this referral process, we have a conciliation process in order that matters can be dealt with more informally and speedily. The response from both consumers and service providers about our conciliation process has been extremely positive⁹.

Efficiency can also be achieved in other areas such as identifying systemic issues and not just focusing on discrete consumer complaints. We regard the early identification of and intervention in, systemic issues as delivering real benefits for consumers and service providers. Where the TIO can identify systems or process issues at an early stage and engage with the provider to discuss a resolution, our experience is that it leads to improved outcomes for consumers and fewer complaints¹⁰.

Effectiveness

We continue to regularly review and make changes to our functions and powers to ensure we can deal with the vast majority of complaints that we receive.

In the past three years, we have instituted substantial changes to our monetary limits. We increased the Ombudsman's power to make binding decisions in individual complaints from \$10,000 to \$30,000 (May 2011) to \$50,000 (July 2012) and increased the power to make recommendations from \$50,000 to \$85,000 (May 2011) to \$100,000 (July 2012)¹¹. The monetary limits to our powers to make binding decisions or recommendations do not however, limit our ability to resolve – through

⁸ See our performance measures reported in the TIO's [Annual Report 2012-13](#).

⁹ See consumer and provider satisfaction with the TIO reported in the TIO's [Annual Report 2012-13](#).

¹⁰ See our systemic issues report in the TIO's [Annual Report 2012-13](#).

¹¹ See [TIO Media Release](#) dated 28 June 2012.

our referral, conciliation and investigation processes – complaints that involve amounts in excess of these monetary limits.

On 1 July 2013, we implemented another change to our jurisdiction by increasing the time limits for when consumers and small businesses can bring complaints to us¹². Consumers can now make complaints about issues that they became aware of up to two years before contacting the TIO, up from one year. The Ombudsman will also have the discretion to investigate complaints that consumers became aware of up to six years before contacting the TIO, up from two years.

The changes mean that the TIO has substantially increased its scope to deal with complaints from consumers who have been trying unsuccessfully to resolve matters privately, and with their service providers, for long periods of time.

Both the changes in respect of monetary limits and time limits were prompted by the changing nature of complaints that we receive each year.

Part 2: Resolving telecommunications disputes

Resolving disputes is our primary role

As an Industry based Ombudsman scheme, we contribute to improving access to justice by offering consumers an alternative and informal dispute resolution pathway.

Our primary role is to resolve telecommunications disputes in an accessible, independent, fair, efficient, responsive and effective way. We do this by offering a high quality dispute resolution service that has kept pace with the evolving and fast changing nature of the telecommunications industry.

Details of our dispute resolution service are outlined below.

Demographic information

We receive and resolve a wide range of disputes between residential and small business consumers and their telecommunications service providers.

Our approach to limiting our services to small business and residential consumer complaints rests on the premise that small business consumers, like residential consumers, are less likely to have the resources necessary to pursue a grievance through the formal legal system. As such, small businesses with telecommunications complaints require access to the TIO in its role as an independent and free external dispute resolution scheme¹³.

As indicated in Table 1, individual consumers form the majority of the consumers who complain to the TIO – around 88 per cent in 2012-13. Small business consumers on the other hand, make up 11.6 per cent of consumers who complained to the TIO in 2012-13, compared to 7.7 per cent in 2008-09.

¹² See [TIO Media Release](#) dated 1 July 2013.

¹³ We take a flexible approach to the criteria we use to define what is a small business. These criteria include the number of employees of the small business (generally 20 employees or less, or goods manufacturing businesses with fewer than 100 employees); annual turnover (less than \$3 million per year); the nature of the business, and if it is typically small or not-for-profit; the way the business is structured or managed; and the issue in dispute: see TIO website at <http://www.tio.com.au/consumers/small-businesses>.

Although many consumers who use our services are from major cities and urban areas, we also help consumers who live in regional and remote areas in Australia. As shown in Table 2, 71.9 per cent of new complaints received by the TIO in 2012-13 were from consumers in major cities and urban areas, with close to 20 per cent from consumers in regional and remote areas.

At the end of 2012-13, 1,360 service providers were TIO members. During the year, 187 new service providers joined the TIO and 48 service providers departed the TIO. As indicated in Table 3, most telecommunications service providers who are TIO members offer telephone only, internet only or both telephone and internet services. The majority of new complaints to the TIO are about telephone or internet services offered by the top 10 telecommunications providers.

Table 1: Distribution of new complaints by consumer type	2012-13
Residential consumers	88.10%
Small businesses	11.60%
Others (charities, not-for-profits)	0.30%

Table 2: Distribution of consumers by region	2012-13
Major cities or urban areas	71.9%
Regional areas (inner and outer regional)	18.8%
Remote and very remote areas	0.9%
Not disclosed	8.4%

Table 3: Profile of TIO members	2012-13
Telephone and internet providers	52.1%
Internet providers only	28.8%
Telephone providers only	14.1%
Others	5.0%

Volume of disputes received

Our ability to resolve a high volume of disputes received each year is an important indication of how the TIO increases access to justice.

We are the busiest Industry based Ombudsman's office in Australia – we receive thousands of calls and emails each week and record more than 150,000 new complaints each year¹⁴.

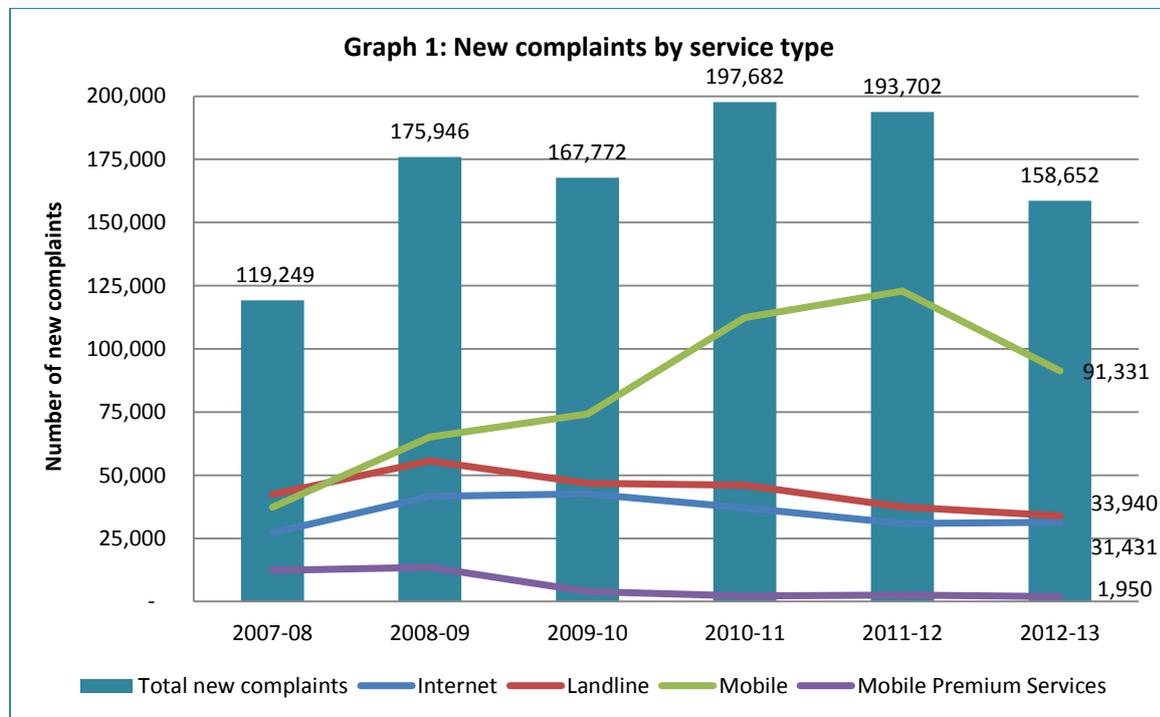
When a consumer – residential or small business – contacts us about an expression of grievance or dissatisfaction about a matter within the TIO's jurisdiction that the service provider has had an opportunity to consider, we record this as a 'new complaint'.

The TIO recorded and handled around 158,652 new complaints from small business and residential consumers in 2012-13. This compares with 193,702 new complaints recorded in 2011-12 and 197,682 in 2010-11. After a record increase of 47.5 per cent in new complaints received in 2008-09 (compared to 2007-08) and a further increase of 17.8 per cent in 2010-11 (compared to 2009-10),

¹⁴ 'New complaints' are predominantly Level 1 matters. The TIO refers these matters to the relevant telephone or internet company for a final opportunity to resolve them directly with the consumer. See [TIO Annual Report 2012-13](#) for more information.

we have more recently seen an 18 per cent decrease in new complaints in 2012-13 compared to the previous year.

Graph 1 highlights the number of new complaints received by the TIO over the past six years by service type – internet, landline, mobile, and mobile premium services.



More information about TIO complaints statistics is available in our [Annual Report 2012-13](#).

Dispute resolution methods used

We use a range of dispute resolution methods that are accessible, flexible, easy to use and appropriate for the complexity of the telecommunications disputes that we handle.

For most complaints we receive, we establish the issues in dispute and the resolution sought, and then refer the consumer or small business to a designated point of contact at the relevant telephone or internet service provider. The provider is given a final opportunity to resolve the matter directly with the consumer, without the TIO's direct involvement. More than 80 per cent of complaints we receive each year are finalised at this stage of the process. A survey of consumers in March 2013 and June 2013 indicated high levels of satisfaction with the TIO's handling of the complaint under the referral process – at 96 per cent and 86 per cent respectively (see Table 6 below).

Where the consumer and service provider do not reach an agreement at this early stage, the TIO becomes more directly involved by seeking to conciliate an agreed resolution between the parties. As indicated in Table 4, around 10 per cent of complaints (or more than 15,000 matters in 2012-13) are finalised using this conciliation process. A survey of consumers in March 2013 and June 2013 indicated high levels of satisfaction with the TIO's handling of the complaint under our conciliation process – at 95 per cent and 93 per cent respectively (see Table 7 below). A survey of service providers in May 2013 also indicated high levels of satisfaction with the TIO's handling of complaints under our conciliation process – at 93 per cent (see Table 8 below).

A small number of complaints that cannot be resolved by conciliation are investigated by the TIO. TIO investigations are comprehensive, requiring the collection of evidence from both the consumer and the service provider, and involving an assessment of the evidence having regard to the law, good industry practice and what is fair and reasonable in the circumstances. A high proportion of investigated complaints are resolved by the parties coming to an agreed resolution.

If the complaint remains unresolved after formal investigation and the TIO is of the view that it would be fair and reasonable to do so, the TIO can make binding determinations up to a value of \$50,000 and non-binding recommendations up to a value of \$100,000 in respect of each complaint. The TIO only occasionally needs to make a binding determination or non-binding recommendation – the TIO issued one determination against a service provider in 2012-13.

Table 4: How disputes are resolved and finalised	2012-13
Disputes finalised at referral	89.7%
Disputes finalised at conciliation	10.0%
Disputes finalised at investigation	0.3%
Disputes finalised at determination	0.001%

Types of disputes resolved

We receive and resolve a wide range of disputes between residential and small business consumers and their telecommunications service providers.

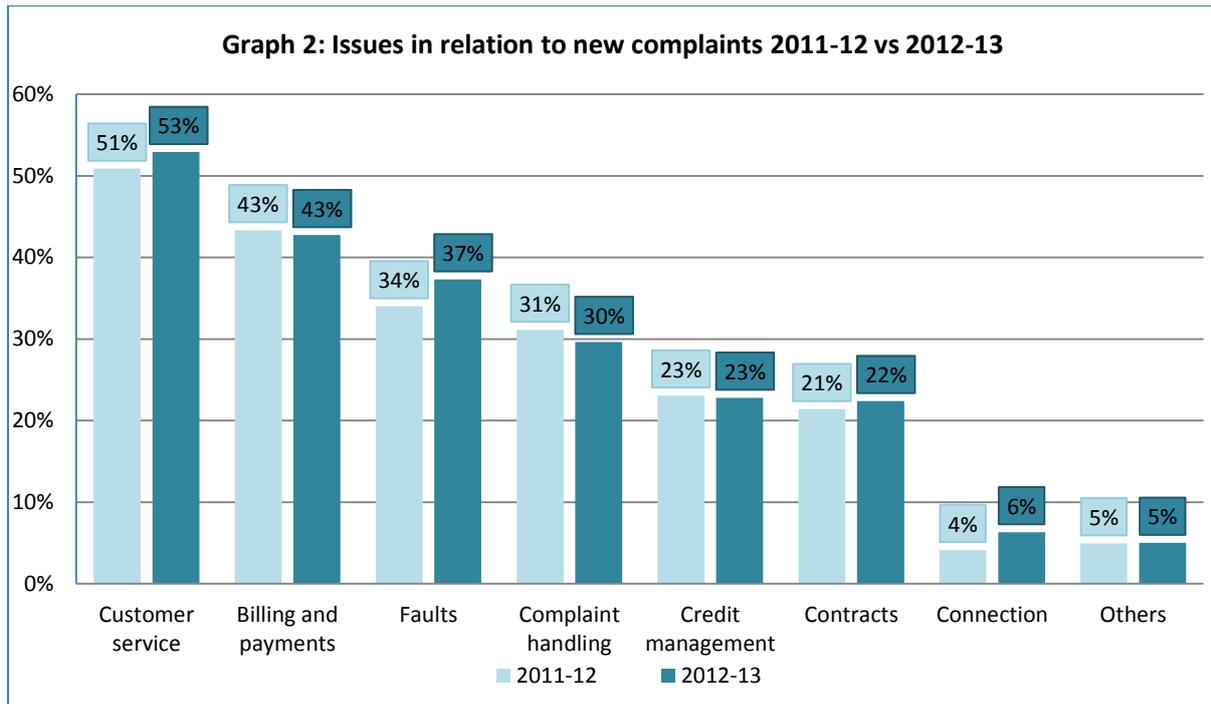
These disputes include connection and fault repair delays, credit management disputes, privacy issues, contractual or transfer disputes, customer service/complaint handling issues and billing disputes that relate to a telecommunications service. We also deal with a small number of disputes that relate to a carrier's exercise of statutory powers to install low impact telecommunications infrastructure on land.

We record new complaints by the types of issues that these complaints present. For every new complaint or case the TIO registers, we may record one or more issues to identify the types of issues that are presented in the new complaint.

Graph 2 below illustrates issues recorded as a proportion of new complaints over the last two financial years.

In 2012-13, customer service issues featured in more than half of all new complaints followed by billing and payment issues in just over 40 per cent of all new complaints. Other prominent complaint issues included faults and complaint handling (both over 30 per cent), and credit management and contractual issues, which are issues in just over 20 per cent of new complaints¹⁵.

¹⁵ Further data and analysis on complaint issues can be found in the [TIO 2012-13 Annual Report](#).



Timeframes for resolution

Improved access to justice requires timely and effective resolutions.

The timeliness and efficiency of TIO complaint handling activities have increased over the past few years as we continuously improve and streamline our dispute resolution processes.

In recent years, we introduced two major changes to our dispute resolution processes. The first involved immediate electronic notification to providers once a complaint is registered by the TIO, so that providers can directly contact their customers and resolve their complaints. This sped up the TIO referral process for new complaints and reduced the run around for consumers, thereby increasing their access to justice.

The second process change was a more streamlined and less formal conciliation process that we introduced to help resolve disputes not resolved via referral. This process succeeded in achieving faster resolution of disputes with fewer cases requiring detailed time consuming investigations.

Table 5 outlines the proportion of complaints finalised in less than 30 days, between 30 to 180 days and more than 180 days by the TIO in 2012-13.

Table 5: Timeframes for resolution or finalisation	2012-13
Complaints resolved within 1 month (less than 30 days)	95.0%
Complaints resolved between 1 to 6 months (less than 180 days)	4.4%
Complaints resolved after 6 months (more than 180 days)	0.6%

Stakeholder satisfaction

The effectiveness of the TIO scheme is demonstrated by the high degree of consumer and service provider satisfaction with our services and the outcome of complaints¹⁶.

In 2012-13, 91 per cent of consumers were satisfied with the TIO's referral services and just over 80 per cent were satisfied with the outcome of complaints. These results are depicted in Table 6 which shows that the TIO exceeded the 80 per cent target for the year.

We also achieved high levels of satisfaction with our conciliation process during 2012-13. Table 7 shows that the TIO exceeded the 80 per cent satisfaction target for the year with 94 per cent of consumers were satisfied with TIO's handling of the complaint during conciliation and close to 87 per cent on average were satisfied with the agreement reached through conciliation.

The TIO achieved high levels of satisfaction with our conciliation process amongst service providers as indicated by Table 8. Our May 2013 survey for all finalised conciliation cases shows all results exceeded the annual 80 per cent target, with 93 per cent of providers satisfied with our handling of complaints, 94 per cent were happy with complaint outcomes and 87 per cent were satisfied with our level of independence.

Table 6: Consumer satisfaction with referral	Mar-13	Jun-13	Average	Yearly target
Handling of complaint	96%	86%	91%	80%
Outcome of complaint	86%	75%	80.5%	80%

Table 7: Consumer satisfaction with conciliation	Mar-13	Jun-13	Average	Yearly target
Handling of complaint	95%	93%	94%	80%
Outcome of complaint	85%	88%	86.5%	80%

Table 8: Service provider satisfaction with conciliation	May-13	Yearly target
Handling of complaint	93%	80%
Outcome of complaint	94%	80%
TIO independence	87%	80%

Part 3: Improving access to justice through our other roles

An independent voice in the telecommunications industry

In addition to the TIO's dispute resolution activities, we are also an independent and expert voice about matters affecting the telecommunications industry.

We enhance access to Australia's civil justice system through our capacity to contribute to important changes to the regulatory framework with the aim of improving industry practices and reducing consumer detriment in the telecommunications industry. To this end, we provide regulators and other stakeholders with critical data and analysis of key issues and trends about telecommunications

¹⁶ See [TIO Annual Report 2012-13](#).

disputes. This information also informs the many submissions and reports that we provide to our stakeholders¹⁷.

Industry improvement initiatives

We help improve industry practices by actively engaging with stakeholders across a range of initiatives and contributing to industry developments. These initiatives are primarily aimed at reducing consumer detriment and preventing disputes from occurring in the first place.

Our involvement in industry improvement initiatives has contributed to tangible outcomes such as a more robust Telecommunications Protections Code in 2012, which is one reason for reduced complaint numbers in 2012-13. Some of our significant initiatives and contributions are outlined below.

Improving industry customer service and complaint handling

TIO connect.resolve campaign (2009)

In November 2008, we launched a public campaign to try to stem the growing tide of very simple complaints that were not only coming to us in droves, but coming back time and time again. The *connect.resolve* campaign focused on creating awareness about customer service and complaint handling difficulties and encouraged telecommunications service providers to focus on improving their processes and systems accordingly.

Throughout the *connect.resolve* campaign, we actively engaged with and provided the ten top service providers with monthly report cards. These monthly report cards compared their performance against the rest of industry, and included case studies to demonstrate the frustrations and concerns of their customers. Through these report cards, we sought to highlight how providers were missing opportunities to resolve complaints without TIO intervention because of easily avoidable problems in customer service and complaint handling.

At the end of the six-month campaign, we issued a public report which detailed each provider's performance.

The campaign achieved significant inroads, with the overall growth of complaints during that six-month period slowing to just 1.8 per cent against the backdrop of a sharp increase in complaints in the previous six-month period. Furthermore, across 2009-10 as a whole, the TIO observed a 60 per cent decrease in complaint issues about customers not being able to contact their service provider and a 48 per cent decrease in complaint issues about long wait times compared to 2008-09.

Resilient Consumers survey (2010-11)

In 2010, we surveyed over 500 consumers who had made a complaint to the TIO, about their customer service and complaint handling experiences prior to seeking the TIO's assistance.

Our [Resilient Consumers report](#) (2011) detailed the survey findings and made a number of observations including:

¹⁷ We made 22 submissions in 2011-12 and 14 submissions in 2012-13 to various inquiries, code reviews and legislative revisions: see [TIO submissions](#) on the TIO website.

- more than 50 per cent of consumers surveyed said that they had contacted their service providers five or more times to address their matters prior to coming to the TIO
- almost 50 per cent of consumers had interacted with more than 3 different contact points or departments at their service provider before lodging a TIO complaint
- nearly 27 per cent of consumers surveyed said they had spent between three and six hours trying to resolve their complaint with their provider, and another 20.3 per cent said they had spent more than nine hours before giving up and turning to the TIO.

The Resilient Consumers report received considerable media coverage and helped inform our responses to the ACMA *Reconnecting the Customer* inquiry.

ACMA Reconnecting the Customer inquiry (2011)

The ACMA announced its *Reconnecting the Customer* inquiry into customer service and complaint handling practices of telecommunications providers, in April 2010. It held a number of public hearings and called for submissions and feedback from a wide range of stakeholders. The ACMA also undertook its own research into customer service and complaint handling best practices.

We made significant contributions to the ACMA *Reconnecting the Customer* inquiry in September 2010, February 2011 and July 2011, with a central focus that customer service and complaint handling are usually symptoms of a more substantive problem.

We recommended that addressing the primary drivers of complaints – such as unexpectedly high bills, confusing point of sale advice, fault repair and connection delays and unfair credit management – would be the best means of reducing consumer complaints, instead of simply focusing on tackling customer service and complaint handling.

When the ACMA's [Reconnecting the Customer final report](#) was released in September 2011, it proposed a five-pronged solution to reducing consumer complaints that predominantly focussed on complaint drivers and was very much in line with TIO sentiments. The ACMA report went on to heavily influence the review and re-drafting of the Telecommunications Consumer Protections Code, which in turn has brought significant change to industry practices and the experience of consumers.

Telecommunications Consumer Protections (TCP) Code (2012)

The TCP Code is the primary consumer protection code for the telecommunications industry, with obligations that span the full continuum of interaction between service providers and their customers. The TIO uses the TCP Code on a daily basis to assist in resolving disputes.

We made submissions to both the review and revisions of the TCP Code (July 2010 and November 2011 respectively). Across these submissions, we commented on the structural gaps within the existing TCP Code, the industry's awareness of/commitment to the TCP Code, the cohesiveness of the TCP Code, the accessibility of the TCP Code and how success of the TCP Code might be measured. We also provided detailed comment on individual sections/clauses of the TCP Code, highlighting the need to ensure vulnerable consumers were adequately protected and how the code could be strengthened further.

The [new TCP Code 2012](#) forms an essential consumer protection tool and an integral part of the telecommunications co-regulatory framework. The implementation of stronger principles and rules

in the TCP Code has also contributed to a clear reduction in the number of complaints to the TIO in 2012-13.

Improving industry practices and standards

International mobile roaming

Our contribution to the development of Australia's new International Mobile Roaming (IMR) Standard is another example of our role in improving industry practices.

In 2012-13, we provided detailed information and data to assist the ACMA develop an industry standard that would apply to all service providers that supply international mobile roaming services to their customers.

In our three submissions, we highlighted the need for regulatory intervention given the growth in international mobile roaming complaints, the high dollar amounts of these disputes and the limited protections under existing industry codes. Our data showed that new complaints about international mobile roaming charges increased by 50 per cent in 2010-11 and nearly 70 per cent in 2011-12. In addition, our data showed that the amounts involved were substantial and rising.

In light of these trends, we recommended that:

- a service provider should obtain specific and informed consent from the consumer before activating international roaming
- on a consumer's arrival overseas and during their stay, the provider should give information about costs of using the mobile service, including unit price based information (for example, the cost of making or receiving a two-minute phone call or downloading an MB of data), and wherever possible provide spend alerts
- a service provider should be able to restrict a consumer's access to roaming where charges are quickly accruing to reduce the risk of an unexpectedly high charge.

Many of these recommendations were adopted in the IMR Standard which took effect on 27 September 2013. In addition, the TIO also accepted conferral of power of receiving, investigating, facilitating the resolution of, making determinations in relation to, giving directions in relation to, and reporting on complaints about matters referred to in the IMR Standard.

The IMR Standard is designed to encourage best practice as telecommunications service providers are now required to notify and inform consumers about roaming activation, charges, spend management tools and opt-out options.

Mobile premium services

The significant improvement in practices within the mobile premium service industry is another area where our initiatives have had substantial impact in recent years.

Our involvement with mobile premium services began in 2006 with the introduction of the Mobile Premium Services Industry Scheme to regulate mobile premium services. We saw increasing numbers of complaints about these services. In 2008-09, when mobile premium services complaints to our office were most prevalent, the TIO recorded over 13,500 new complaints about mobile premium services. This accounted for around 7.7 per cent of all TIO new complaints.

Most of these complaints involved claims from consumers that they:

- did not ask for the mobile premium services
- received high bills for mobile premium services
- could not cancel a mobile premium service and kept getting billed for it
- could not contact or communicate with a mobile premium services supplier
- found out that their child had subscribed to unsuitable mobile premium services, or
- were not told barring of mobile premium services was available.

The TIO reported extensively and in detail on mobile premium service complaints. Our data prompted a significant response by both industry and regulators, leading to the creation of a robust Mobile Premium Services Code and two ACMA Determinations that mandate the availability of barring of mobile premium services and that can forcibly halt the operations of mobile premium service providers who do not act within the rules.

In 2012-13, new complaints about mobile premium services now account for only 1.2 per cent of new complaints, with only 1,950 consumers needing the TIO's assistance with these services.

Addressing systemic issues

The TIO's industry improvement and engagement functions also enhance access to Australia's civil justice system. Our response to systemic issues in the industry is and will be an increasingly important tool to help manage complaint demand, reduce consumer detriment and increase service provider accountability to their customers.

We closely monitor emerging complaint trends to identify whether these are due to a common cause, for example, a failure in systems or processes of a service provider. Where we identify a possible systemic issue, we will consider whether it is more effective to amalgamate a group of complaints and commence a potential systemic investigation, rather than handling each complaint individually through standard complaint handling processes.

The TIO Constitution confers powers to investigate 'systemic problems' arising from consumer complaints to the TIO. Systemic problems may be weaknesses or failures in the systems, processes or practices of a telecommunications service provider that cause detriment (that is not trivial) to a significant number or a class of customers¹⁸. Where a formal investigation does not appear to be practical, for example where an issue needs to be resolved very quickly to avoid significant consumer detriment, the TIO may adopt a more informal approach and engage with the relevant service provider to explore resolutions.

Further information about our [Complaint Handling Procedures – Systemic Problem Investigations](#) is available on the TIO website.

During 2012-13, the TIO assessed 270 potential systemic cases, intervened in 41 of these cases and achieved outcomes that have addressed significant consumer detriment. Some of the main issues detected in the 41 interventions included:

- consumers having services transferred to new providers after misleading sales calls

¹⁸ See clause 5A.1 of the [TIO Constitution](#).

- vulnerable consumers having payments deducted from Centrelink benefits without their knowledge, and
- product advertising for prepaid plans that did not match recharge options.

Examples of systemic interventions undertaken by the TIO in 2012-13 are illustrated in Table 9 below. More detailed case studies about our systemic interventions are outlined in **Appendix A**.

Table 9: Examples of systemic interventions in 2012-13

Date commenced	Issue	Outcome	Date closed
Jun-12	Disconnecting landline services without the proper notification as required under the Customer Service Guarantee (CSG) Standard.	The TIO investigation focussed on the notification provided to consumers where outstanding charges remained unpaid. During the investigation, the provider agreed to significantly change its suspension notices to ensure consumers received necessary information within prescribed timeframes. The TIO was satisfied with these changes and submitted a report to the ACMA.	Oct-13
Oct-13	Multiple issues: spend management tools, financial over-commitment and complaint handling.	Potential TCP Code breaches referred to the ACMA. The provider responded by activating and notifying consumers of new data usage tools and alerts to help them minimise overspending and financial over-commitment. The provider changed their direct debit transaction data to ensure consumers had adequate time to check their bills. The provider agreed to not terminate a customer's service following a complaint to the TIO.	Feb-13
Jun-13	Charging for calls that did not connect.	The provider gave the TIO information and data about 'call answer events' and specific examples when charges are incurred for calls that may not have been physically answered by the called party. The provider also developed and increased the amount of information available on its Help and Support website.	Jul-13
Jan-13	Telemarketing practices and unauthorised transfers.	The provider addressed our concerns by: <ul style="list-style-type: none"> • exploring alternative telemarketing vendors • implementing more effective quality assurance measures • obtaining independent legal advice to review compliance practices and documentation, and • providing the TIO with copies of its compliance documents. Some outstanding issues were referred to the ACMA.	Jul-13
Mar-13	Misleading advertising and incorrect billing.	The provider made changes to its recharging options to enable consumers to purchase their chosen plan at the advertised price and confirmed the monthly roll-over of unused credit. The provider also introduced an 'auto-recharge' option for its 'unlimited' plans which automatically enrolls consumers in the auto-recharge scheme. The provider confirmed and adjusted marketing to show that 'unlimited'	Jul-13

		plans excluded 13 numbers but included 1300 and 1800 numbers. The TIO was satisfied with these changes.	
Nov-12	Multiple issues: transfers - telemarketing - spend management tools.	The provider amended telemarketing scripts, strengthened quality assurance activities, increased the availability of spend management tools, improved direct debiting and credit management practices. The TIO continues to liaise with the provider, the Australian Consumer and Competition Commission (ACCC) and the ACMA regarding telemarketing and unauthorised transfers, financial over-commitment and hardship concerns, and insufficient direct debiting timeframes.	Oct-13
Mar-13	Enforcement of Acceptable Use Policy (AUP) and complaint handling practices.	The provider ensured it was working to prevent the suspension of services other than in circumstances subject to the AUP. It also undertook to: <ul style="list-style-type: none"> • clarify its AUP • notify customers who breach their AUP • only suspend services after several successive breaches of its AUP. The TIO closed the investigation but will continue to monitor trends relating to “unlimited” services and associated “acceptable” or “fair” use policies across the telecommunications industry.	Aug-13
Apr-13	Unauthorised transfers.	The provider promised to: <ul style="list-style-type: none"> • cease certain telemarketing arrangements • adjust call scripting to ask if the consumer is the authorised account holder • ensure consumers are advised that they now had a new provider • notify consumers of a 10-day cooling off period and the service transfer date • make a welcome call to new customers to confirm their details and requested plan • confirm all business consumers' ABNs are confirmed and cross-referenced • reinvest in call centre training • establish a Quality Control Team to review sales calls. 	Aug-13

Part 4: Internal dispute resolution as a further avenue for improving access to justice

Effective internal dispute resolution

Alongside external dispute resolution bodies such as Ombudsman schemes, effective internal dispute resolution (IDR) by service providers or organisations is also an essential ingredient for achieving access to justice. Key elements of good IDR include:

- a robust and documented complaints-handling procedure
- analysis and consideration of complaints data to identify and address root causes of complaints, and
- addressing systemic problems and areas requiring attention in a proactive manner.

The ACMA's [Reconnecting the Customer final report](#) stated that effective internal dispute resolution is fundamental to a well-functioning telecommunications market. This is more so in a converged environment where supply chains and product offerings are complex. Key recommendations in the [Reconnecting the Customer final report](#) included the improvement of complaints handling rules in the TCP Code to provide adequate community safeguards.

The new TCP Code 2012 – revised significantly to incorporate the recommendations of the ACMA's Reconnecting the Customer final report – has regard to the standards and requirements in the Australian Standard – Complaint Handling AS ISO 10002-2006. The new TCP Code 2012 contains a range of new obligations that require accessible, effective, efficient and fair internal complaint handling practices by service providers.

The TIO has seen many instances of effective IDR in recent years, the best of which involve the telecommunications provider publicly admitting to a mistake and putting a fix in place for all impacted customers. We outline below, a few examples of effective IDR in the telecommunications industry.

Optus SurePage billing error – 2013

Recently Optus announced it had discovered that its billing system had been charging customers in error for a voicemail-like product called 'SurePage' over a period of two years. Optus stated that the error amounted to \$8.8 million, and affected 235,000 post-paid mobile and small business customers. Optus made an undertaking to refund all affected customers with interest¹⁹.

Telstra global roaming billing error – 2012

In December 2012, Telstra announced that it had accidentally overcharged customers for global roaming to the tune of \$30 million over a period of six years. According to Telstra, the overcharging was caused by the way international carriers were generating their data usage records, meaning customers were charged for multiple data sessions when they should not have been. Telstra made an undertaking to issue refunds to affected customers²⁰.

¹⁹ For more information: <http://topnews.net.nz/content/230228-optus-refund-88-million-customers-over-charged-surepage-service>.

²⁰ For more information: <http://www.smh.com.au/technology/technology-news/telstra-repays-30-million-after-overcharging-for-global-roaming-20121221-2bqr1.html>.

Telstra privacy breaches – 2010

In October 2010 Telstra sent correspondence containing the name, phone number and plan name of 220,000 customers to the wrong people, 23,000 of whom had silent lines. Telstra admitted publicly to the error, put a hotline in place for affected customers and instituted an internal investigation²¹.

Later that same year, Telstra discovered a glitch with a social media aggregating tool called 'Tribe', which was allowing some customers to see the Tribe accounts of other customers. When the glitch was discovered Telstra shut Tribe down and took immediate steps to rectify the problem. It also took steps to contact each affected customer²².

Benefits of effective internal dispute resolution

There are significant benefits for all involved when effective IDR systems are put in place.

For consumers, they receive a timely remedy for their grievance, and they are also saved from having to spend time and energy pursuing the complaint through external dispute resolution or finding a new provider for their service.

For the providers themselves, there are substantial opportunities, such as:

- retaining customers that would otherwise have been lost to another provider
- avoiding loss of reputation, and in some cases improving reputation by being seen as honest and transparent
- minimising the loss of the investment put into acquiring the customer in the first place
- good business intelligence about what needs to be done to improve the quality of services for all customers, and
- avoiding external dispute resolution fees, debt collection agency fees, the cost of writing off bad debts or lawyer/court costs.

Effective IDR systems mean that many disputes between consumers and service providers are resolved at the service provider level and the complaints never reach the TIO. The proactive action taken as part of industry IDR directly leads to early resolution of disputes for many consumers. IDR therefore plays a very important role within the broader civil justice system: because of its preventative nature and holistic impact, disputes are resolved at their earliest stage.

Part 5: Recommendation and conclusion

Recommendation

The Productivity Commission has requested comment on the scope and operation of ombudsman services in Australia.

Industry-based Ombudsman schemes are well-placed to understand the nuances of industry disputes. Assisting consumers and service providers to resolve disputes in an accessible, independent, fair, accountable, efficient and effective manner is their core business.

One way in which the civil justice system can leverage on the expertise and effectiveness of industry-based Ombudsman schemes is to mandate – for appropriate disputes – referral to industry

²¹ For more information: <http://exchange.telstra.com.au/2010/11/23/tribe-service-interruptions/>.

²² For more information: <http://nett.com.au/technology/second-telstra-privacy-breach-1513/>.

Ombudsman schemes where the Court considers that alternative dispute resolution processes would assist the parties to resolve the dispute. Such a referral could occur, for example, when one of the parties to the dispute is a member of the industry-based Ombudsman scheme and the subject matter of the dispute falls within the existing jurisdiction or remit of that Ombudsman scheme.

Such an approach could facilitate greater use of alternative dispute resolution and improve access to civil justice.

Existing legal frameworks already conceive of referral to alternative dispute resolution processes.

In the Federal jurisdiction, both family law²³ and general civil procedure²⁴ provide for a culture of active dispute resolution. This includes referrals to alternative dispute resolutions processes both before and during legal proceedings. In Victoria, a court may make an order referring a civil proceeding to appropriate dispute resolution²⁵ at any stage in the proceeding²⁶.

Appropriate dispute resolution for the purposes of the *Civil Procedure Act 2010* means processes that would also be considered alternative dispute resolution processes. The definition expressly includes conciliation and expert determination²⁷. The order may be made with or without consent of the parties, unless the type of appropriate dispute resolution²⁸ would result in a binding outcome, in which case consent is required²⁹.

The *Magistrates' Court Act 1989* provides that the Rules of Court may include rules referring, directing or ordering the parties to appropriate dispute resolution³⁰. The Rules of Court state that the Court must actively manage cases, including encouraging the parties to use alternative dispute resolution if the Court considers that appropriate³¹.

Mandating referral to industry Ombudsman schemes may have the additional benefit of encouraging service providers and consumers to engage with alternative dispute resolution processes earlier if they know that referral from the Court to the industry Ombudsman is likely. This may assist with earlier resolution of disputes, preventing issues from evolving into bigger problems and saving scarce court resources. It could also save individuals and organisations the financial, time and emotional costs of protracted disputes.

²³Section 13C *Family Law Act 1975 (Cth)* provides the option for the Court, on its own initiative, to refer the parties to family dispute resolution and section 60I requires the parties to make a genuine effort to resolve the dispute using family dispute resolution before applying for Court orders.

²⁴The *Civil Dispute Resolution Act 2011 (Cth)* requires the parties to take genuine steps to resolve the dispute and to provide confirmation of this, in the case of the applicant prior to lodging proceedings per s6 and before the hearing per s7 in the case of the respondent. In addition, section 11 of the *Civil Dispute Resolution Act 2011 (Cth)* empowers the Court to take into account whether a person took genuine steps to resolve a dispute in line with the requirements of the Act. The *Federal Circuit Court of Australia Act 1999 (Cth)* expressly provides, in Part 4, for dispute resolution for proceedings other than under the *Family Law Act 1975* and s22 says the Court must consider whether to advise parties to pursue alternative dispute resolution processes.

²⁵Section 66(1) *Civil Procedure Act 2010 (Vic)*.

²⁶Section 66(3) *Civil Procedure Act 2010 (Vic)*.

²⁷Section 3 *Civil Procedure Act 2010 (Vic)*.

²⁸Section 3 *Magistrates' Court Act 1989 (Vic)*: has the same meaning as in the *Civil Procedure Act 2010*.

²⁹Section 66(2) *Civil Procedure Act 2010 (Vic)*.

³⁰Section 16 *Magistrates' Court Act 1989 (Vic)*.

³¹Rule 1.24(e) *Magistrates' Court General Civil Procedure Rules 2010 (Vic)*.

Conclusion

Alternative dispute resolution services are a critical component of a well-functioning civil justice system given the high proportion of disputes that are resolved via informal mechanisms³².

The TIO is one example of how industry-based Ombudsman schemes can improve access to justice by providing a fast, free and fair dispute resolution service to telecommunications consumers and service providers. The TIO also demonstrates how Ombudsman schemes help improve industry practices through their expert and independent knowledge of the industry and through their stakeholder engagement activities. This component of the TIO's work helps strengthen the civil justice system by helping prevent disputes from arising, and consequently reducing complaint volumes.

³² Productivity Commission, *Access to Justice Arrangements Issues Paper* (2013), accessed on 10 October 2013 at http://www.pc.gov.au/_data/assets/pdf_file/0006/128085/access-justice-issues.pdf, page 3.

Appendix A: Case studies

Systemic case studies

These are some examples of our systemic interventions in 2012-13 to address issues that had the potential to affect a large number of consumers.³³

Systemic case study 1

Protecting vulnerable consumers

We stopped a company (Excite 2011) from taking money out of vulnerable consumers' Centrelink payments.

Centrelink, a government service that allows consumers to pay bills from their Centrelink entitlements, cancelled a contract with Excite 2011 following a TIO systemic investigation. This stopped Excite 2011 from deducting money from disadvantaged or vulnerable consumers who may have been unable to pay for the services in the first place.

Issues raised by consumers

More than 100 customers of Excite 2011 made a complaint to us about unusual direct debits to their accounts. Some of the common issues they told us were:

- money was taken from their bank accounts or Centrelink benefits without their permission
- they were not given the chance to check the charges as Excite did not send them invoices, and
- they were no longer customers of Excite 2011.

What we did

Our Industry Improvement team investigated Excite 2011's practices, and we raised our concerns with the company. Excite did not respond to our concerns, and did not take any action to stop the issues.

We referred the case to the ACMA. We also alerted the ACCC, which referred the issue to Victoria Police. In addition, we alerted the federal Department of Human Services about the issue. As a result, Centrelink, which is run by the department, cancelled the contract that allowed Excite to direct debit consumers' Centrelink payments.

The results

Within three months of this action, we no longer received complaints about this issue.

³³ The following case studies are sourced from the Telecommunications Industry Ombudsman 2012-13 Annual Report: <http://annualreport.tio.com.au/performance/systemic-case-studies>.

Systemic case study 2

Protecting consumers from misleading sales calls

Utel Networks was fined and ordered to review its telemarketing practices as a result of a TIO systemic investigation.

We referred the results of a systemic investigation about Utel's sales practices to the ACCC. Our investigation showed that consumers' landline services were being transferred to Utel without proper consent.

Issues raised by consumers

Complaints made to the TIO suggested that Utel was not getting informed consent from consumers it cold-called before transferring their services. The telemarketers would usually claim to be calling from the consumers' existing providers.

Other issues included not giving consumers information about cooling-off periods and transferring services away before the end of cooling-off periods.

What we did

We raised these issues with Utel, reminding the company that some of them may be contrary to the Australian Consumer Law and the Telecommunications Consumer Protections Code.

Utel's response did not address our queries, and it did not appear that the company had acted on our recommendations because we continued to receive these types of complaints. We therefore referred the issue to ACCC and the ACMA.

The results

The ACCC issued three fines totalling \$19,800 and ordered Utel to make a court-enforceable undertaking to ensure that its telemarketing staff will not identify as being from another provider.

Systemic case study 3

Marketing and activation of prepaid services

Lyca Mobile aligned the advertised cost of their prepaid services to their recharge options after informal discussions with our Industry Improvement team.

The consumer's experience

The consumer bought a SIM from Lyca after seeing an ad for a prepaid \$14 option. When she bought her first recharge, she was upset to find out that she could only recharge \$20 or \$50.

The consumer bought a voucher anyway and followed the activation instructions. She used the service for a month, and when she recharged the following month, her credit ran out after only two days. She called Lyca, and was told she had not activated her plan correctly. It turned out she had to activate her plan every time she recharged as if it was the first time.

What we did

The consumer was not happy with Lyca's response and made a complaint to the TIO. We noticed that she was not the only consumer with this experience. Our Industry Improvement team contacted Lyca about a potential systemic issue with their recharge options.

Lyca willingly discussed these issues with us. It recognised that offering easy-to-use recharge options was good for their customers.

The results

Lyca changed the activation process to give consumers more information about how to recharge, and created an automatic renewal option for consumers who wanted it. Lyca also changed the payment requirements to include an option that allowed consumers to recharge for the advertised price of \$14.

Systemic case study 4

Easy to understand bills

Telstra consumers now find their bills are easier to read and understand after discussions between the provider and the TIO.

What we did

We contacted Telstra after noticing that many of the telco's customers who contacted us had trouble understanding the relationship between charges and credits on their accounts. A number of consumers made complaints about being double billed, when in fact, they hadn't.

We raised the issue informally with Telstra by passing on the feedback that consumers had given to us.

The results

Telstra took on board the feedback and decided to find ways to improve the invoices. It invested in studies to understand how its customers read their bills. With the results of these studies as a guide, Telstra redesigned its invoices so customers could understand them more easily, while still complying with tax law.