



Telecommunications  
Industry  
Ombudsman

## Telecommunications Industry Ombudsman 2007 Annual Report



**This year we helped more than 100,000 people...**

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## Telecommunications Industry Ombudsman Limited

ACN 057 634 787

Telephone 03 8600 8700

Facsimile 03 8600 8797

Freecall™ 1800 062 058

Freefax™ 1800 630 614

TTY 1800 675 692

Translator & Interpreter Service 131 450

**Website** [www.tio.com.au](http://www.tio.com.au)

**Postal Address** PO Box 276 COLLINS STREET WEST  
Victoria 8007 Australia

**Street Address** Level 3, 595 Collins Street  
Melbourne Victoria 3000  
Australia

The Telecommunications Industry Ombudsman  
provides free, independent, just, informal  
and speedy resolution of complaints  
about telecommunications services



Using your mobile phone while overseas can be expensive. This woman had her SIM card stolen while she was travelling and faced an \$18,000 bill. See how the TIO resolved the matter on page 40.

This man returned home one day to find that a telecommunications service provider had dug a trench through his yard without informing him. Our case study on page 48 provides information on your rights should a service provider need to access your property.

Barring of expensive services on your phone can be a wise alternative – especially if you can't control who uses it. This woman faced a large bill when someone made numerous overseas calls from her home phone. The complete story is on page 39.

Over a five-month period, e-mails to this man's friends were returned to him as undeliverable. This was one of several issues he had with his internet service provider. More details are on page 44.

# The year at a glance

Issue	Details
<p><b>Overview</b></p> <p>The overall number of complaint issues to the TIO grew from 127,479 to 166,885, a 30.9 per cent increase on the 2005/06 year.</p>	<p>The big increase in complaint issues this year was driven by the internet category, which grew by 108.9 per cent. This compares with growth of 44.1 per cent last year and 54.1 per cent the year before. There were increases in all internet complaint issue categories including:</p> <ul style="list-style-type: none"> <li>• an 84.5 per cent increase in Billing and Payments complaint issues. A significant contributor to this category of complaint issue was customers claiming that direct debit payments had been made without authorisation or were not terminated as requested</li> <li>• a doubling of complaint issues about Faults. These included claims that customers were having problems with drop-outs, slow data speed and faulty equipment such as modems</li> <li>• A 55.3 per cent increase in complaint issues about Customer Service. This contrasts with falls in this category in landline and mobile services. In this category people complained about discourtesy, failures by providers to action requests and lengthy wait times.</li> </ul> <p>Landline complaint issues grew by only 3.9 per cent this year, compared with 17.4 per cent last year and 23.2 per cent the year before. Notable changes included:</p> <ul style="list-style-type: none"> <li>• a 13.4 per cent fall in Credit Management complaint issues. Contributing factors included some companies introducing spending alerts for customers, and the introduction of the financial hardship provisions of the <i>Credit Management Code</i> in October 2006</li> <li>• a 36.9 per cent increase in Contract complaint issues. This reflects a move to combined contracts for telephone and internet services. Traditionally, landline services were provided on request and terminated on request. Many services are now supplied on contract for a minimum period – usually as part of a bundled contract or a “capped” plan inclusive of call charges</li> <li>• a 46.9 per cent decrease in Privacy complaint issues. In previous years, a large proportion of Privacy complaints were about telemarketing. The Federal Government’s <i>Do Not Call Register</i>, which was introduced in May 2007, allows people to opt out of receiving certain telemarketing calls.</li> </ul> <p>Mobile complaint issues grew by just 4.1 per cent compared with 29.5 per cent last year and 87.5 per cent the year before. Two areas are highlighted:</p> <ul style="list-style-type: none"> <li>• a substantial drop in complaint issues about Billing and Payments. This was mostly a reflection of the introduction of the Mobile Premium Service Industry Scheme. Before MPSI, complaint issues about premium SMS services were logged under the Billing and Payments category. (See facing page for more information about MPSI.)</li> <li>• a 10.2 per cent increase in complaint issues about Faults. A large proportion of these complaints were about mobile handset faults.</li> </ul>

## Review of the TIO scheme

In accordance with our *Articles of Association*, an external independent review of the scheme was commissioned in 2006. The review, conducted by the Allen Consulting Group, was completed in November 2006. After seeking submissions from interested parties, including consumer groups, the consultants assessed the TIO scheme against the six benchmarks for industry-based customer dispute resolution schemes. The benchmarks are:

- accessibility
- independence
- fairness
- accountability
- efficiency
- effectiveness.

The report made a series of recommendations which were considered by the TIO Council and are in the process of being implemented. A copy of the report and the TIO's response to it are available at [www.tio.com.au](http://www.tio.com.au).

The review concluded that:

- from a general perspective, the TIO is a highly effective alternative dispute resolution service that is able to facilitate the resolution of a large number of disputes in a timely manner
- the general awareness level of the scheme is good, with the regular survey results indicating that a large number of consumers have some awareness of the TIO
- some specific groups have low awareness of the TIO
- there are some concerns about the average time taken to resolve disputes, particularly those that are relatively complex. The report said that there was "scope to consider the adequacy of the TIO's current level of funding to improve the timeliness of decisions".

Overall, the consultants said the amendments they recommended were relatively minor and they had not identified any fundamental problems or failings that would undermine the TIO's overall effectiveness.

## Mobile Premium Services Industry Scheme

On 1 December 2006, the TIO began recording complaints as the escalated complaint handling body for the Mobile Premium Services Industry (MPSI) scheme. The statistical analysis of the TIO scheme and the MPSI scheme are treated separately in this report. For a detailed report on the scheme, please see Mobile Premium Services Industry Scheme, page 59.

The Mobile Premium Services Industry (MPSI) scheme is a self-regulatory scheme that was developed by mobile carriage service providers and content service providers. It contains rules about providing mobile customers with clear and transparent information about the costs, and terms and conditions on which mobile premium services are offered. It also sets out how complaints about mobile premium services should be handled.

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

The TIO has handled on average 1,400 MPSI complaint issues a month since we began taking complaints in December 2006. Numbers peaked in March 2007, when just under 1,800 complaint issues were recorded and declined to just under 1,100 complaint issues in June 2007. The TIO has handled 10,083 complaint issues under the MPSI scheme.

Just over 2 per cent of MPSI complaints were formally investigated by the TIO, compared with up to seven per cent of complaints received under the TIO scheme.

## Systemic issues

Systemic issues may affect a large number or class of customers, not just the person reporting the issue to the TIO. Following the introduction of formal investigative powers in July 2006, the TIO can now investigate systemic issues with a view to recommending resolutions to service providers that will benefit significant numbers of people, rather than just those who have approached the TIO to lodge a complaint.

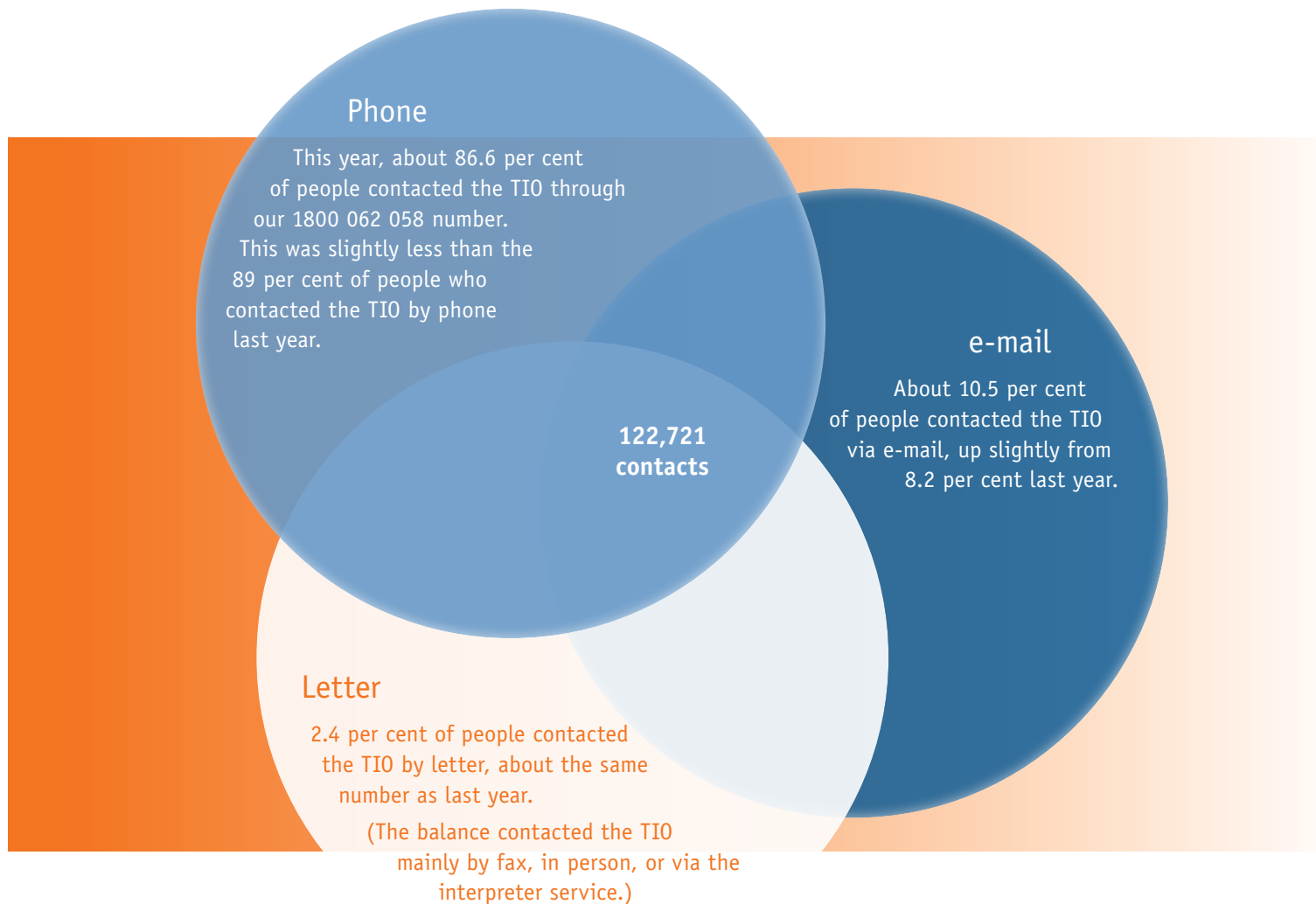
The TIO investigated eight systemic complaints this year, including:

- a decision by an internet service provider to unilaterally restrict the connection speed of customers when they exceeded a set data limit in a given month
- an attempt by a service provider to pass on complaint-handling charges to a customer because he had lodged a complaint with the TIO.

(See, Systemic issues investigations, page 64)

# Consumers

The Telecommunications Industry Ombudsman's office is a complaint handling service for consumers and small businesses who have been unable to resolve a complaint with their service provider. People contact the TIO via three main mediums.



### 20,258 enquiries

TIO scheme 19,628, MPSI scheme 630

With enquiries, there is no further action by the TIO.

An enquiry is a contact where:

- the consumer had not contacted their provider first
- the matter was outside the TIO's jurisdiction
- the company complained about was not a member of the TIO.

The number of enquiries was slightly higher than last year. However, enquiries as a proportion of total contacts dropped from 18.6 per cent to 16.5 per cent.

### 122,721 contacts

This year the TIO received 122,721 contacts, an increase of 14.1 per cent on the 2005/06 year.

A contact is any communication with the TIO.

### 102,463 complaints

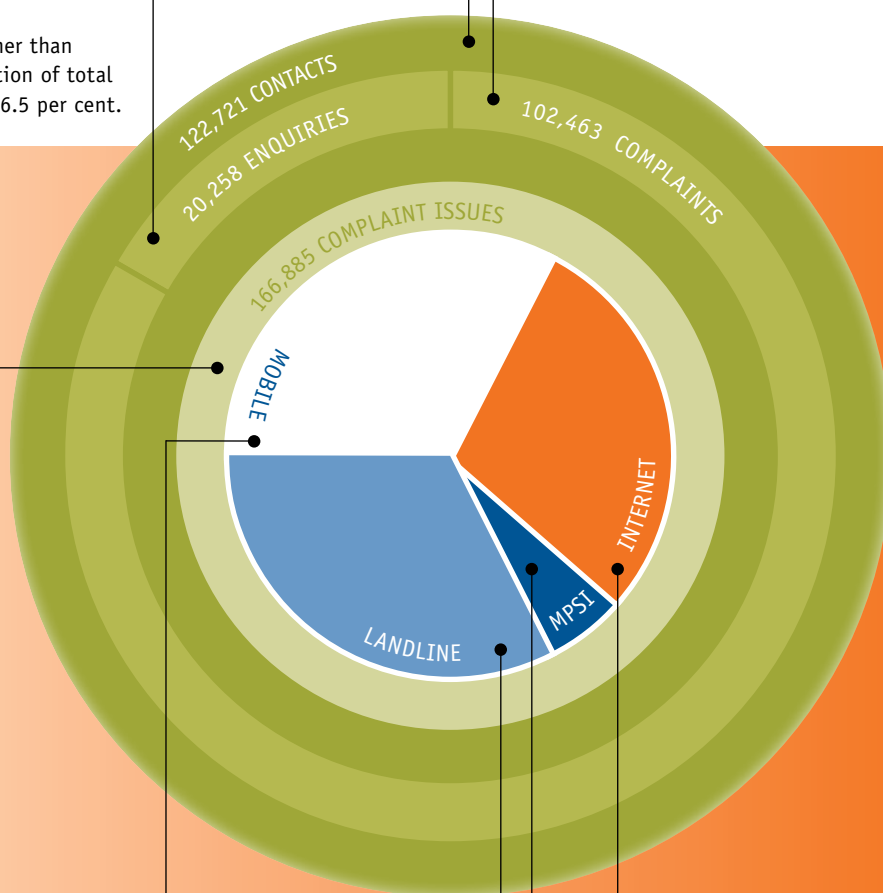
TIO scheme 95,377, MPSI scheme 7,086

A complaint is an expression of grievance or dissatisfaction that falls within the jurisdiction of the TIO and which the telecommunications service provider concerned has had an opportunity to resolve.

16.9 per cent more complaints were received this year than last.

### 166,885 complaint issues

Each complaint may be about several issues. For example, a person who complains about a landline bill may also complain about a landline fault or credit management issue.



### 54,336 landline service issues

3.9% increase on last year.

### 48,181 internet service issues

108.9% increase on last year.

### 54,285 mobile service issues

An increase of 4.1% on last year.

### 10,083 MPSI scheme issues

Scheme introduced in December 2006.



# Consumers *continued*

## Who contacted the TIO

### Contacts by type 2006/07\*

Residential	114,792	93.5 %
Community	85	0.07 %
Government	348	0.3 %
Charity	45	0.04 %
Small business	7,451	6.1 %

\* Contacts include complaints and enquiries.

The TIO adheres to the National Privacy Principles and tries to limit the amount of personal information it collects about each complainant. Nevertheless, certain information is required by the TIO and members in order to resolve complaints. The TIO collects each complainant's full name, address details, gender, contact information and account or service numbers.

### Residential consumers

The overwhelming majority of people who contacted the TIO were residential consumers. This was consistent with previous years.

### Community sector

Many of the complaints logged under the TIO's community category were from people representing others. For example, under this category the TIO received complaints from:

- aged care facilities complaining that their residents were being subjected to harassment from telemarketers
- residents calling to say that the local payphone did not work
- financial counsellors and legal aid agencies calling on behalf of clients
- indigenous consumer organisations calling on behalf of community members.

### Government

Calls under this heading were mainly referrals from government agencies such as state offices of Fair Trading and Consumer Affairs. The TIO may take complaints from organisations such as universities and local councils depending on the circumstances of the complaint.

### Charities

The TIO logged only 45 complaints from charities. Complaints came from a diverse range of charities as well as organisations such as church groups.

## Small business

The percentage of small business complaints received by the TIO was consistent with the previous year.

As with previous years, more small business complaints require formal investigation than do complaints from other sources. This is probably because small businesses use a greater number of, and more sophisticated, telecommunications services than residential consumers.

### Breakdown by complaint type (small business)

Level 1	Level 2	Level 3	Level 4	Total
5,539	611	149	20	6,319
87.7%	9.7%	2.4%	0.3%	100.0%

Unlike overall complaints to the TIO, the majority of complaints from small business are about landlines, followed by mobile phone and internet services. (See Breakdown by service type graph on opposite page).

### Small business bundled contracts

The TIO continues to be concerned about "bundled" agreements offered to small businesses for the provision of telephone services and "free" equipment such as laptops, plasma-screen TVs and dishwashers.

During 2006/2007, the TIO was receiving about 20 complaints a week from small businesses concerning these deals.

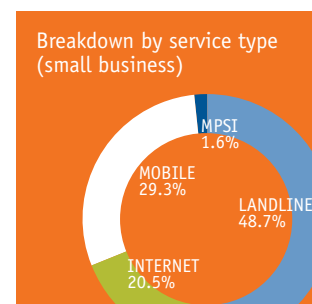
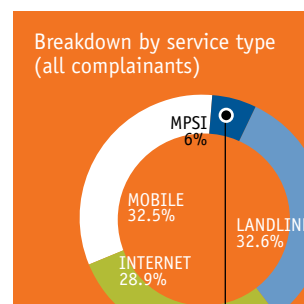
The characteristics of the bundled deals include:

- two inter-related contracts, with monthly equipment lease payments often being offset by "credits" on the phone bill from the telecommunications service provider. The size of these credits is similar to the monthly lease payments for the finance contract
- if the business then transfers to another phone company, they are still be bound by the finance company lease but without credits from the phone bill
- the equipment can prove to be quite expensive if the business ends up paying just the finance lease. The TIO has received complaints about standard model laptops costing up to \$20,000 in lease payments.

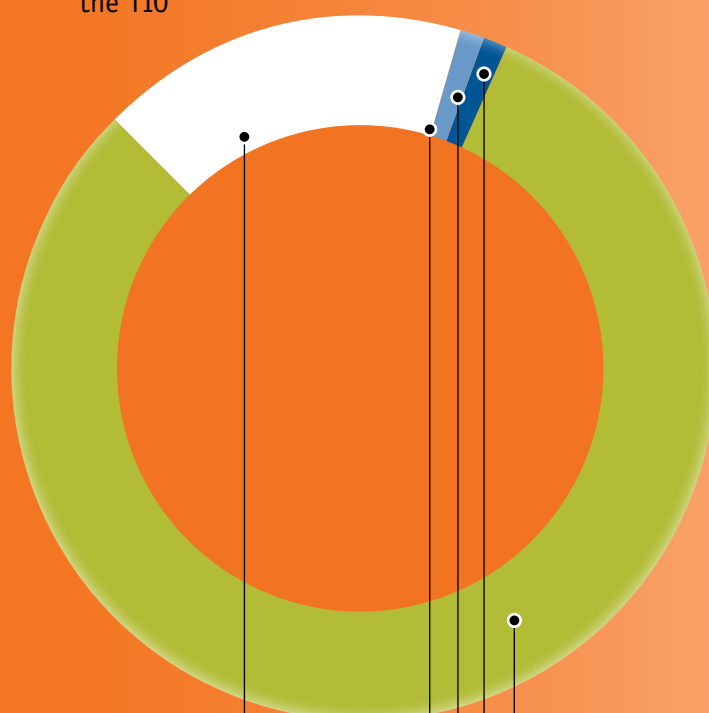
The dual contract arrangement might meet the needs of many businesses, but the TIO is concerned by the number of complaints from small businesses who said they had been misled and then found themselves locked into expensive equipment leases. The TIO can make binding rulings to direct service providers to release a small business or consumer from a telecommunications contract, but has no similar power over a finance company and their leases.

The TIO will be issuing a media release in 2007/2008 to highlight this issue and warn small businesses to take care before entering contracts of this nature.



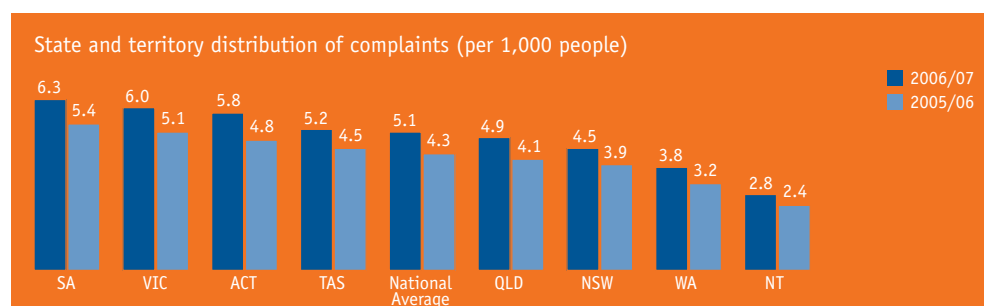


### Who contacted the TIO



The TIO started taking complaints under the Mobile Premium Services Industry Scheme from December 1, 2006. Before that premium SMS complaints were recorded under Mobile services.

# Consumers *continued*



## Where they came from

### State and territory distribution of complaints

Complaint rates have risen in all states, reflecting the overall increase in complaints to the TIO. The disparity in complaint rates across the country may be due to differences in awareness of the TIO. We continue to attempt to increase awareness in areas where complaint rates are low.

### Complaints by region

The TIO classifies complaint statistics in five regions developed by the Australian Bureau of Statistics according to residents' access to a full range of goods and services. Those in remote areas have the least access, while those in major cities have the most access. Complaint rates increased this year, but there was no significant change in the respective rankings of each region compared with last year.

### Complaints by remoteness area – national (complaints per 1,000 people)

Region	2006/07	2005/06
Major cities of Australia	5.4	4.7
Inner regional Australia	4.8	4.1
Outer regional Australia	4.4	3.4
Remote Australia	2.6	2.3
Very remote Australia	1.2	1.1

## Source of referral

Each person who calls the TIO is asked how they heard about the Ombudsman's office. This information helps us formulate public relations strategies.

This year's statistics were fairly consistent with last year's, with notable differences showing for directories and media coverage: Directories (including *White Pages*) fell again from 5.8 per cent to 4.8 per cent. Referrals from directories have been falling for the past four years. This may be a reflection of people moving from hard copy directories to the internet. The TIO has a listing in the front section of all Australian hard copy directories and a business listing in all the capital city hard copy directories.

Media coverage as a source of referral fell from 6.1 per cent to 3.9 per cent. This category includes referrals from newspaper and magazine coverage; television coverage and advertising; and internet coverage.

The percentage of referrals by providers fell from 17.1 per cent to 13.3 per cent.

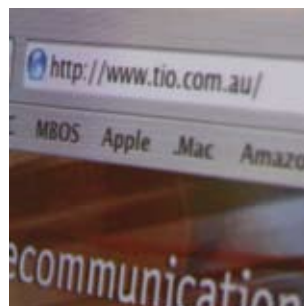
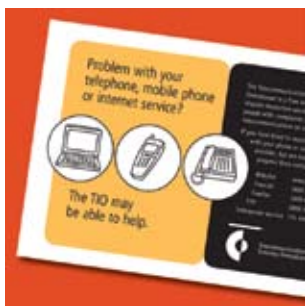
### Source of referral\*

Source of referral	Number of referrals	Percentage
Word of mouth	29,489	24.0%
Return complainant	17,601	14.3%
Other agencies**	16,899	13.8%
Member	16,279	13.3%
Unknown	15,154	12.3%
TIO publications	14,276	11.6%
Directories	5,920	4.8%
Media coverage	4,754	3.9%
Financial/legal counsellor	1,983	1.6%
Inappropriate referral	333	0.3%
MPPI content provider	33	0.0%
<b>Total</b>	<b>122,721</b>	

\* includes complaints and enquiries

\*\* other agencies include:

- the Department of Communications Information Technology and the Arts
- the Australian Competition and Consumer Commission
- state Fair Trading Offices
- the Australian Communications and Media Authority
- other ombudsmen's offices.



## Our work in the community

### Media

With the appointment of a new Ombudsman, the introduction of the Mobile Premium Services Industry (MPSI) scheme and a rise in complaints, the TIO has been busy responding to media enquiries. Over 100 journalists contacted the TIO this year. When available, the Ombudsman or Deputy Ombudsman provide interviews and have appeared on radio, on television and in print media.

### Public Relations and Communications Interest Group

The Public Relations and Communications Interest Group (PRAC) is a group of public relations people from 12 Ombudsman schemes that are all part of the Australian and New Zealand Ombudsman Association (ANZOA). The group's youth campaign "*Speak Up*" continued this year and consisted of distributing postcards with the message "*Everyone Has a Right to Complain*".

### Key groups

Accessibility is one of the six key benchmarks for industry-based customer dispute resolution schemes (see Department of Industry Science and Tourism benchmarks, page 81). The accessibility benchmark requires that schemes make themselves readily available to customers by promoting knowledge of their existence, being easy to use and having no cost barriers.

Where possible the TIO accepts invitations to address a diverse range of community organisations.

In addition, the TIO has determined, from its two-yearly public awareness survey and data from its complaints database, that it will attempt to increase awareness among five key groups:

- indigenous communities
- small business
- youth
- people with disabilities
- rural and regional communities.

### Indigenous communities

The New South Wales Anti-Discrimination Board formed the Good Service committee in 2005 and the TIO is part of a group within this committee known as the "Good Service Mob". Visiting regions throughout New South Wales, the Good Service Mob aims to inform indigenous people about their consumer rights. In 2006/07, TIO staff took part in free community information days in Dubbo, Condobolin, Cowra and Bankstown. Other organisations in the Good Service Mob are:

- the Banking and Financial Services Ombudsman
- Legal Aid New South Wales
- the Commonwealth Ombudsman
- the New South Wales Ombudsman
- the New South Wales Office of Fair Trading
- the Energy and Water Ombudsman New South Wales.

### Small business

In conjunction with staff from the Banking and Financial Services Ombudsman (BFSO), the TIO set up an information stand at the Small Business Summit in Sydney in June 2007. The event was attended by over 350 delegates from the small business community as well as by politicians and regulators.

### Youth

*Sort It*, a joint publication with the BFSO, was reprinted in May 2006/2007. The booklet contains case studies about difficulties young people have experienced with mobile phones and credit cards.

The case studies are also the basis of a role play that the TIO and BFSO performed at the Victoria Law Foundation's Civics Roadshow in Morwell and Law Week in Melbourne, and at the National Youth Affairs Conference in Melbourne. Each performance involved staff from the TIO and BFSO as well as students from a local high school.

## Consumers *continued*

In February, the TIO and BFSO held an Orientation Day display at Holmesglen Institute of TAFE's Chadstone campus. Another new youth initiative was the TIO's attendance at the Law Graduate Career Workshop at La Trobe University in Melbourne. The TIO gave a presentation on alternative dispute resolution and also spoke about graduate positions available with the TIO.

The TIO and the BFSO gave a joint presentation at the national conference of the Business Educators of Australia held in Adelaide in October last year. The TIO gave a presentation at the Business Educators Teachers Association SA conference in May.

### People with disabilities

For the second year, the TIO advertised in publications aimed at people with disabilities, including *Link*, *Interaction*, *Better Hearing* and *AAD Outlook*.

Public affairs staff also attended the Good to Great conference held in Melbourne by Disability Professionals Victoria, and the Ageing and Disability conference held in Adelaide by the National Disability Service.

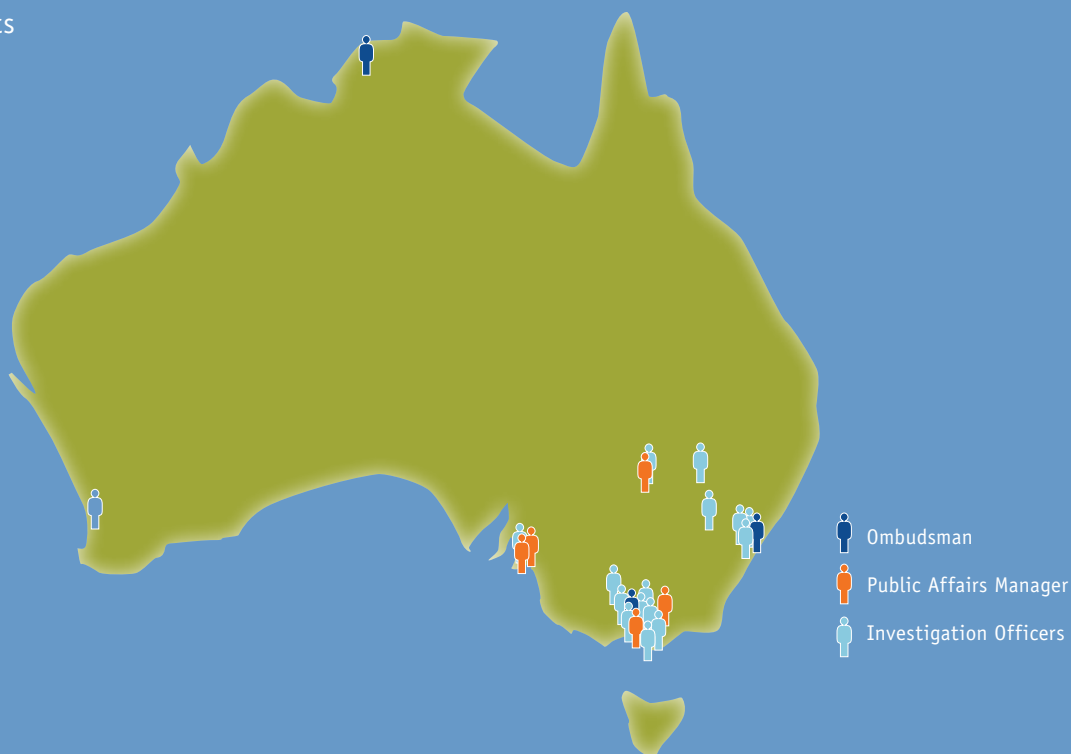
### Rural and regional communities

The rate of complaints from rural and regional areas is significantly lower than that in metropolitan areas. The Ombudsman and Deputy Ombudsman gave several interviews on ABC Radio stations in rural and regional areas to increase awareness of the scheme. The Ombudsman, John Pinnock, who left the scheme in May 2007, also gave a presentation at the 32nd Triennial conference held in Darwin by the Country Women's Association.

For the first time last year, in conjunction with the Energy and Water Ombudsman New South Wales, the TIO attended the National General Assembly of Local Government in Canberra. Through this event we were able to reach councillors from a range of shires. As a result of requests at the conference, the TIO mailed publications to more than 80 people.

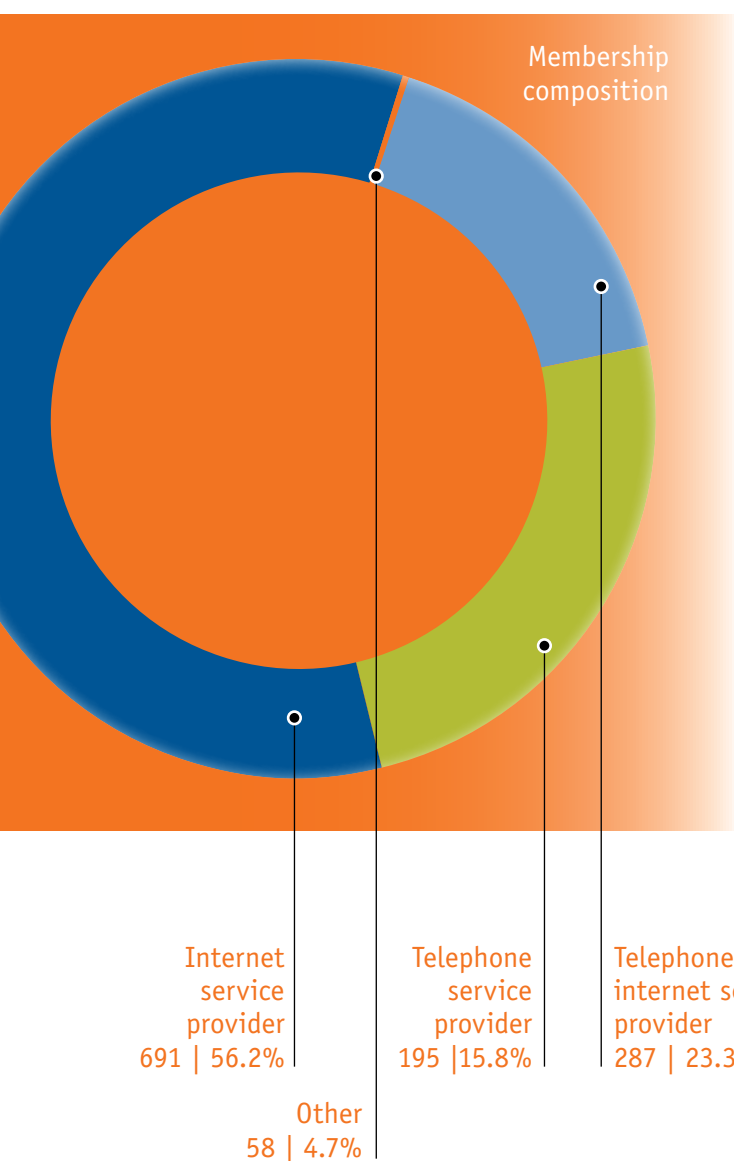
In late 2006/07 and early 2007/08, the Federal Government highlighted the role of the TIO in a major advertising campaign, *Your Telecommunications Safeguards*, which was aimed at consumers in rural and remote areas.

## Outreach events 2006/07



2006–2007	Forum	Person(s) attending
July	Telecommunications Summit, Sydney	Ombudsman
August	Presentation to the Salvation Army, Bendigo	Investigation Manager
August	Society of Consumer Affairs Professionals panel discussion on <i>Do Not Call Register</i> (Sydney)	Ombudsman
August	Australian Mobile Telecommunications Association Member Forum (Melbourne)	Ombudsman
August	32nd Triennial Conference, Country Women's Association of Australia (Darwin)	Ombudsman
September	Law Graduates Career Workshop, LaTrobe University, Melbourne	Investigation Officers
September	Good Service Forum, Dubbo	Investigation Officer
October	Business Educators of Australia conference, Adelaide	Public Affairs Manager
October	Financial Counsellors of Western Australia conference, Perth	Deputy Ombudsman
November	6th National Investigations Symposium, Manly	Senior Investigation staff
November	National General Assembly of Local Government, Canberra	Public Affairs Manager, Investigation Manager
November	Telstra Consumer Consultative Council (TCCC) Annual Forum, Melbourne	Investigation staff
February	Holmesglen Institute of TAFE Orientation Day, Melbourne	Public Affairs Manager, Investigation staff
March	ACCC Scamwatch campaign (national)	Public affairs staff
March	Disability Professionals Victoria, Good to Great conference, Melbourne	Public affairs staff
March	Good Service Forum, Cowra and Condobolin, New South Wales	Investigation Manager
April	ACROD Ageing and Disability Conference, Adelaide	Public affairs staff
May	National Youth Affairs Conference, Melbourne	Public affairs, Investigation staff
May	Good Service Forum, Bankstown	Investigation Manager
May	The Law Foundation's Civic Roadshow, Morwell, Victoria	Public affairs, Investigation staff
May	Consumers Telecommunications Network conference, Sydney	Policy, Investigation staff
May	Law Week Victoria, Melbourne	Public affairs, Investigation staff
May	Business Educators Teachers Association SA conference, Adelaide	Investigation staff

# TIO members



## Member numbers 2006/07

2005/06 members, total	1,170
New members 2006/07	177
Departed members	116
Total	1,231

## Membership composition

Category	Number	% of total
Internet service provider	691	56.2%
Telephone and internet service provider	287	23.3%
Telephone service provider	195	15.8%
Other	58	4.7%
Total	1,231	

## TIO funding

The TIO is an industry-based alternative dispute resolution (ADR) scheme, deriving its funding solely from members, who are charged fees for complaint resolution services provided by the TIO.

A member is charged fees only if the TIO receives a complaint from one of the member's customers. The funding system therefore acts as an incentive for members to keep TIO investigations to a minimum by developing and maintaining effective complaint handling and customer service procedures.

The funding mechanism is simple in principle. Each TIO member pays for the TIO's investigative services based on the number and relative proportion of total complaints against it each quarter.

Complaints attract a direct fee, which varies according to the level to which the complaint is escalated by the TIO. These fees are shown in the table below. In addition to these volume-related costs, a member will pay a proportion of overhead or operating costs determined by its percentage share of total complaints.

### Direct complaint fees

	\$	GST	Total
Level 1	30	3	33
Level 2	220	22	242
Level 3	400	40	440
Level 4	1,500	150	1,650
Level 4 Land Access	2,400	240	2,640

Enquiries (\$30) and reviews (\$500) are funded as part of operating costs.

Members are invoiced quarterly, including an estimate of costs to be incurred in the following quarter. Each quarter, actual and estimated charges are reconciled.

The funding model has two important consequences. If a member incurs no complaints, it pays nothing to the TIO. During 2006/07, only 15.5 per cent (191) of the 1,231 TIO members were charged for complaints.

Also, the model is based on the principle of demand-driven funding – if complaints rise, the TIO can recruit extra staff to handle those complaints.

The TIO has a policy whereby the first four Level 1 complaints and the first Level 2 complaint each quarter are free to members. In 2006/07 this resulted in members not being charged for 2,984 Level 1 complaints and 449 Level 2 complaints.

## Member Communications section

The TIO, through its Member Communications section, plays an important role in helping members reduce the number of complaints that are escalated to the TIO and thereby improving the standard of customer service within the industry.

During 2006/07 many members accepted Member Communications' invitation to enhance their understanding of the TIO's complaint handling processes.

This took several forms, including:

- enquiries about the status of complaints
- requests for direction about obligations imposed by the Customer Service Guarantee (see Glossary, page 81) and industry codes
- on-site training about the role of the TIO and the way we handle complaints.

The complaint handling staff of many members visited the TIO in order to gain a greater understanding of TIO processes. Visiting members said the time was well spent and gave them insight into changes they could make to their own processes.

In the year ahead, the TIO will work closely with members to promote more robust, fair and transparent internal dispute resolution processes.

## Referral to ACMA

All members have obligations with respect to the TIO under the *Telecommunications (Consumer Protection and Services Standards) Act 1999* (Cwlth). The Act specifies that:

- eligible carriage service providers must join the TIO scheme
- members of the scheme must comply with the scheme
- the Australian Communications and Media Authority (ACMA), in consultation with the TIO, may direct a company to join the scheme.

During 2006/07 the TIO referred two members, Bytecard Pty Ltd (trading as Netspeed) and Global Networks Pty Ltd, to ACMA for failing to comply with the scheme.

ACMA can take a range of enforcement measures, ranging from consultation and investigation through to Federal Court action, against a member deemed non-compliant.

## Industry activity

Throughout the year, consolidation within the industry appeared to gain momentum. Mergers, acquisitions and insolvency created uncertainty for many complainants as they looked to someone to take responsibility for the handling of their complaint. Sometimes complainants were surprised to find their contract for service had been sold to a third party. In these circumstances, the Member Communications team sought information that allowed complaints to be assigned to new owners where appropriate.

In the TIO's experience, when a company acquires a telecommunications asset such as a customer base without due provision for extra customer service and internal complaint handling, a rapid rise in TIO complaints may ensue. In these cases, the TIO expects the member gaining the customer to resolve current and future complaints relating to a continuing service.

During the year, Member Communications developed a process to provide early warning of members exhibiting signs of insolvency or crisis. This protects other members' investment in the scheme as well as reinforcing the TIO's ability to handle complaints stemming from significant external events.



# Chairman of the Board

The TIO has completed another year of providing independent and effective complaint resolution services to customers of the telecommunications industry.

A surplus of \$8,593 was achieved, which is a good result considering that the TIO had to bear the costs of relocating offices during the year. The TIO maintains a healthy financial reserve to protect it from fluctuations in cash flow, which in turn will protect members from unforecast demands for funding.

The Board has addressed a number of major issues during the year. Three of these are detailed below.

- Accommodation requirements were outstripping the capacity of the 114 William Street, Melbourne premises. After an extensive search, new premises were chosen at 595 Collins Street. The new offices provide the TIO with a modern and efficient single-floor plan while at the same time saving members a significant sum of money over what would have been incurred had the TIO simply taken more space in the existing building. Particular thanks go to Board member Rohan Doyle for his assistance throughout this process.
- The Board commissioned a cost review of the TIO by PriceWaterhouseCoopers. The review identified the true costs of delivering the services by complaint level and these costings will influence pricing over the next few years. The review also identified six initiatives that will have a significant role in reducing the scheme's costs while maintaining or increasing its independence and effectiveness.
- The Board commissioned a review of the scheme by the Allen Consulting Group. The review endorsed the positive direction the TIO is taking and confirmed that it is meeting the key accountabilities of an industry ombudsman's office. An action plan, which the Board and Council have adopted and are monitoring, was developed from the review.

At 30 June 2007 there were 1,231 members of the scheme, with 177 new members having joined during the year and 116 members having departed. Welcome to the new members and best wishes to those departing members.

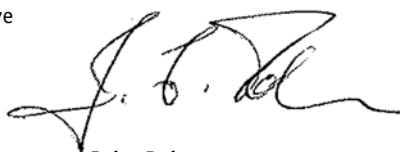
The terms of two elected Board members, Mark Graubner and Rohan Doyle, expired in December 2006. Andrew Bedogni also resigned from the Board after many years on the Council and Board. Steve Dalby and Brian Chapman commenced as Board members in December 2006. I would like to thank all Board members for their contributions this year.

John Pinnock, who was Ombudsman for the past 12 years, did not seek to have his term extended and the new Ombudsman, Deirdre O'Donnell, joined the scheme in May.

I would like to thank John for all those years of dedicated service and wish him a bright future. His contribution to the telecommunication industry was recognised in the award of Telecommunications Ambassador of the Year 2007 and the Board congratulates him on that award.

I would like to welcome Deirdre O'Donnell to the scheme and look forward to working with her in the future. I would like to personally thank all the staff at the TIO, especially the ombudsmen John Pinnock and Deirdre O'Donnell, Deputy Ombudsman Simon Cleary, and the General Manager – Business, Phillip Carruthers.

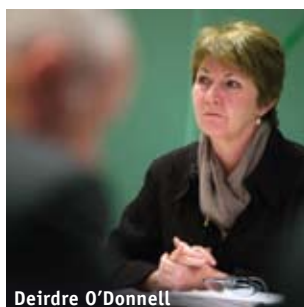
I would also like to thank the chairman and members of the Council for their dedicated performance over the year.



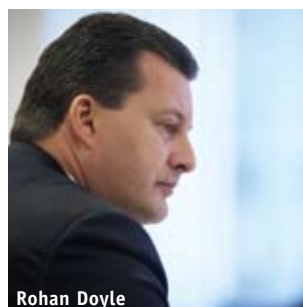
**John Rohan**  
Chairman of the Board



Mark Davidson



Deirdre O'Donnell



Rohan Doyle



John Rohan



Trevor Hill



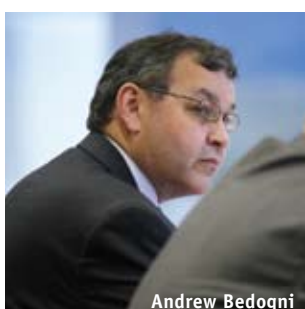
Steve Dalby and Michael Lawrey



Jane Harvey



Michael Lawrey



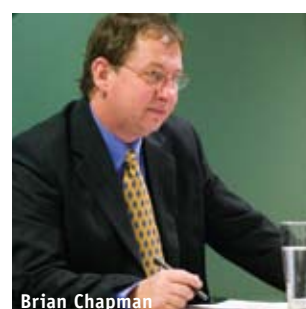
Andrew Bedogni



Mark Graubner



Michael Elsegood



Brian Chapman

## TIO Board

### Chairman of the Board:

Mr John Rohan

### Independent director:

Ms Jane Harvey

### Industry representatives:

Mr Mark Davidson, *Director Consumer Customer Care, Optus*

Mr Brian Chapman, *Regulatory Manager Complaints, Fraud and Security, AAPT* (Commenced 7 December 2006)

Mr Trevor Hill, *Group Manager Consumer and Compliance, Public Policy and Communications, Telstra*

Mr Michael Lawrey, *Executive Director Network Services, Telstra Services*

Mr Michael Elsegood, *Manager, Regulatory Compliance and Safeguards, Optus* (Commenced 2 October 2006)

Mr Steve Dalby, *Chief Regulatory Officer, iiNet* (Commenced 7 December 2006)

Mr Andrew Bedogni, *General Manager – Regulatory Compliance and Self Regulation, Optus*

(Resigned 1 September 2006)  
Mr Rohan Doyle, *CEO/Director, Concert Telecom* (Resigned 6 December 2006)

Mr Mark Graubner, *General Manager, Convergent ComCo* (Resigned 6 December 2006)

# Chairman of the Council

The TIO continues to be an institution of enormous value to the Australian community.

In 2006/07 there were 102,463 complaints brought to the TIO, an increase of 14,870 (or 16.9 per cent) over the previous year. The high complaint load imposed considerable pressures on the organisation during the year.

Major items considered by the TIO Council this year were:

- the development of the TIO's role in the Mobile Premium Services Industry scheme
- the development and implementation of an action plan to address the Review of the TIO conducted in 2006
- addressing carriage service/equipment leasing bundles, which are an emerging product
- addressing a survey of TIO staff members
- monitoring the implementation of the new Level 2 procedure
- development of a submission on the *Communications Legislation Amendment (Content Services) Bill 2007* (Cwlth) to the Department of Communications, Information Technology and the Arts (DCITA)
- appointment of a new Ombudsman.

Council sincerely thanks the outgoing Ombudsman, John Pinnock, for his years of dedication. It warmly congratulates him on his recent award as Telecommunications Ambassador of the Year 2007. Council also thanks the staff of the TIO for providing an outstanding service to consumers and industry and particularly Deputy Ombudsman Simon Cleary and the General Manager – Business Phillip Carruthers for supporting the Council. The Council is delighted that Deirdre O'Donnell has rejoined the TIO, as Ombudsman, after a very successful period as Western Australian Ombudsman.

Council welcomed two new members, Van Le and Matthew Russell of Vodafone. The Council thanks departing Council members Ross Young and Van Le of Vodafone and Elizabeth Beal of the Communications Law Centre for their insightful contributions to the TIO.

The Council looks forward to continuing to guide the development of the TIO over the coming year. On a personal note I wish the TIO all the best for the future upon my departure from the scheme.



**Tony Staley**  
Chairman of Council



Tony Staley



Elizabeth Beal



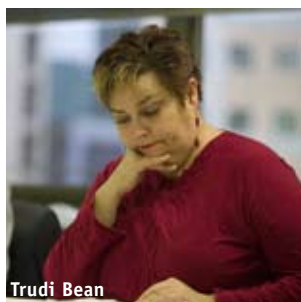
Pam Marsh



Wayne Warburton



Matt Russell



Trudi Bean



Ross Young



Ross Wheeler



Robyn Ziino



Neil Mounsher



Myra Pincott



Christopher Newell

## TIO Council

### Chairman of the Council

The Hon. Tony Staley AO

### Consumer representatives

Ms Elizabeth Beal  
*Communications Law Centre,  
Victoria University*  
(Resigned 2 April 2007)

Ms Pam Marsh *Consumers'  
Telecommunications Network*

The Rev. Canon Dr Christopher  
Newell AM *Australian Federation  
of Disability Organisations*

Ms Myra Pincott AO *The Country  
Women's Association of Australia*

Dr Wayne Warburton  
*Wesley Mission*

### Industry representatives

Ms Trudi Bean *Optus*

Mr Neil Mounsher *Telstra*

Mr Ross Young *Vodafone*  
(Resigned 20 February 2007)

Mr Matt Russell *Vodafone*  
(Commenced 25 May 2007)

Ms Van Le *Vodafone*  
(commenced 21 February 2007,  
resigned 24 May 2007)

Mr Ross Wheeler *Albury Local  
Internet Pty Ltd*

Ms Robyn Ziino *AAPT*



How the scheme is run

# The Ombudsman's overview



Pictured middle  
(left to right)  
Phillip Carruthers, *General  
Manager – Business*;  
Deirdre O'Donnell  
*Ombudsman*; and  
Simon Cleary, *Deputy  
Ombudsman*.

The continuing demand for the TIO's services by consumers of telecommunications and internet services, manifest in this year's figures, is evidence of the importance of the TIO's role as a central element in the framework of consumer protections.

The reporting period has seen yet another increase in the number of contacts the TIO has received and in the issues raised with us by consumers. (In 2006/07, the TIO received 122,721 contacts, a 14.1 per cent increase on 2005/06.)

The telecommunications industry itself has continued to evolve as new technologies are brought to market and enhanced service offerings are made available, and there is no sign that the pace of change will lessen in the future. The rise in internet complaints to almost equal the traditional areas of landline and mobile services is a sign of the importance of internet services to consumers. However, the overall rise in complaint numbers and complaint issues strengthens the TIO's message that our members must have good internal dispute resolution systems in place, including appropriate and accessible escalation mechanisms. This is reinforced by the complaints the TIO receives about poor customer service and complaint handling practices.

During the year another significant activity for the TIO was the receipt of complaints under the Mobile Premium Services Industry (MPSI) scheme. This has been in operation, and has generated complaints to the TIO, since December 2006. (The complaints are detailed separately in this report.) There will be a 12 month review of the MPSI scheme in October 2007, and the TIO complaint data will provide a valuable contribution to this review.

Against this background, the office itself underwent a major change when its long-term leader, John Pinnock, moved on in late May 2007 after an exemplary career as the Telecommunications Industry Ombudsman from 1995 to 2007. John's legacy is an office that has not just grown to keep pace with the evolving industry but has at its core the values and commitment to serve telecommunications consumers by offering the best possible dispute resolution scheme. This foundation is what we will build on to ensure our ongoing relevance as an ombudsman scheme.

Lessons the industry can learn from TIO complaint data can serve to make the sector more responsive to its customers, and hence give those customers greater confidence that their concerns are not just heard but acted on. This is a message we constantly reinforce to our members. As well, we continue to give high priority to assisting our scheme members to improve their complaint handling performance by learning from their customers' feedback and from TIO investigations and complaint resolution. This will be a priority for the year ahead.

I am proud and honoured to take up the role of Ombudsman, following in John's footsteps. The TIO staff have done an excellent job under John's guidance, and I would like to take this opportunity to thank them for their continuing commitment to all that the TIO stands for. There is no doubt that the year ahead will present many challenges, but we look forward to dealing with these in order to ensure that our complaints handling role continues to improve and develop.

**Deirdre O'Donnell**  
Ombudsman

*Deirdre O'Donnell began work as Telecommunications Industry Ombudsman on Tuesday 29 May. Most recently, Ms O'Donnell was the Western Australian Ombudsman, a position with wide investigative powers, including those of a Royal Commission. The WA State Ombudsman's office also incorporated the functions of Energy Ombudsman. Before her role in Western Australia, Ms O'Donnell was the Deputy Telecommunications Ombudsman. She has extensive experience in the telecommunications industry, working in senior positions for service providers and the industry regulator.*

# Farewell John Pinnock



When John Pinnock began as Telecommunications Industry Ombudsman in 1995, the TIO employed 16 people and had been in existence for two years. There were three members – Vodafone, Optus and Telstra – who were required to be in the scheme as part of their licence conditions.

In his first annual report (1994/95), John said that there had been about 33,000 contacts, resulting in about 17,000 cases. He also said he would be hard pressed to identify any significant trends in complaints but knew that the number of people calling his office was certain to grow. That growth has meant that in 2006/07, John's last year as Ombudsman, the TIO's 100 staff handled about four times the number of initial contacts and about six times the number of initial cases.

John knew when he signed on that an industry as dynamic as telecommunications would provide plenty of interest as well as considerable challenges. One thing that he paid particular attention to was the question of who would face those challenges with him. Over the years about 216 people worked with John at the TIO and he recruited most of them personally.

John's faith in his staff was rewarded by their appreciation of him as Ombudsman. In a farewell speech made by Deputy Ombudsman Simon Cleary, some of the comments relayed to John from staff included:

- John genuinely cares about the health and welfare of staff
- he sees people's potential and is willing to give people opportunities
- he is always kind to staff and treats them as humans first and foremost
- he provided certainty of direction
- he gives credit where it is due
- he carries himself with integrity always
- he has an open mind.

It is a tribute to John and the team that he built that today's TIO can handle with great skill complaints ranging from a consumer not receiving sufficient credit on a \$10 phonecard to financial hardship cases involving tens of thousands of dollars.

The other important group of people with whom John worked closely during his tenure as Ombudsman were the TIO's members.

The *Telecommunications Act 1997* boosted TIO membership considerably as it required all carriers and eligible service providers to join the scheme. Membership in 1997 rose to 535. As well as an increase in complaints, this development meant that the TIO had to expand its technical awareness as all internet service providers were brought into the fold.

The industry formally recognised John's contribution earlier this year when it awarded him the Telecommunications Ambassador of the Year award. The award, which is jointly presented by industry publication *CommsDay* and the Communications Alliance, honours personal contributions that serve as an exemplar of leadership at the highest level within the telecommunications industry.

Finally, as Ombudsman, John played an enormous part in shaping the experience of telecommunications consumers. The TIO assesses all complaints based on the law, what's fair and reasonable and good industry practice.

As a lawyer and a man of great compassion, John had considerable knowledge of the law and of what could be regarded as fair and reasonable outcomes to disputes. This informed and guided the development of the TIO's approach to complaint resolution and is embedded in the office's current practices. John played an important part in shaping good industry practice in the form of the ACIF code regime. He helped to build the code framework through his extensive contribution to a range of reference panels, working committees and project groups. The code regime also drew heavily on John's example in the development of back-billing provisions for the *Billing Code*, and financial hardship and unlimited credit provisions for the *Credit Management Code*.

John Pinnock's significant contribution to the Australian telecommunications industry is a testament to his passion for the role of Ombudsman and his dedication to the TIO scheme.

# Farewell Tony Staley



Words such as impartiality, wisdom, grace and humour come to mind when describing the way that Tony Staley handled his 11-year term as the Chairman of the TIO's Council. Tony's term finished in July this year.

As a former Minister for Post and Telecommunications and President of the Liberal Party, Tony brought a formidable amount of knowledge and political acumen to the TIO when he came to the Council in 1997.

But it was his personal qualities that assured Tony's success as chair of the TIO Council with its five industry member and five consumer representatives. His job was not to personally mark out new ground for the TIO scheme, but to ensure that with the appropriate guidance 10 people with often disparate views would work together in the interests of making the TIO the best alternative dispute resolution scheme that it could be.

His approach was to ensure that there was a proper discussion before any decisions were made. His personal grasp of the issues at hand helped to ensure that the discussions were relevant and well informed. Tony's consensus approach often required considerable patience but decisions reached were those endorsed by all Council members, rather than those achieved by a majority vote. His appreciation of the consequences of the issues being considered added a further dimension to his value.

One of the qualities that people most identify with Tony is his sense of humour. His way of looking at the world has been described as irreverent, raucous and mischievous. For Tony, the TIO Council was serious business, but from time to time it had to be leavened with a sense of fun.

The TIO's Council, Board and Ombudsman, Deirdre O'Donnell, and TIO staff would like to thank Tony for his many years of commitment to the TIO Scheme and wish him the best in all his future endeavours.

## Council members' recollections

"He is a poet and he is very literary. You would be talking to him and he would quote a poem."

"There is nothing like having been a Minister of Communications in the sense that there was not much that he had not seen before."

"He had a significant degree of empathy with people and would really attend to what was being said."

"He had a knack of being able to defuse tense times with his good natured banter and humour."

"He tended to facilitate matters that came to him rather than driving an agenda. He would try to ensure that things were done in a fair and reasonable way."



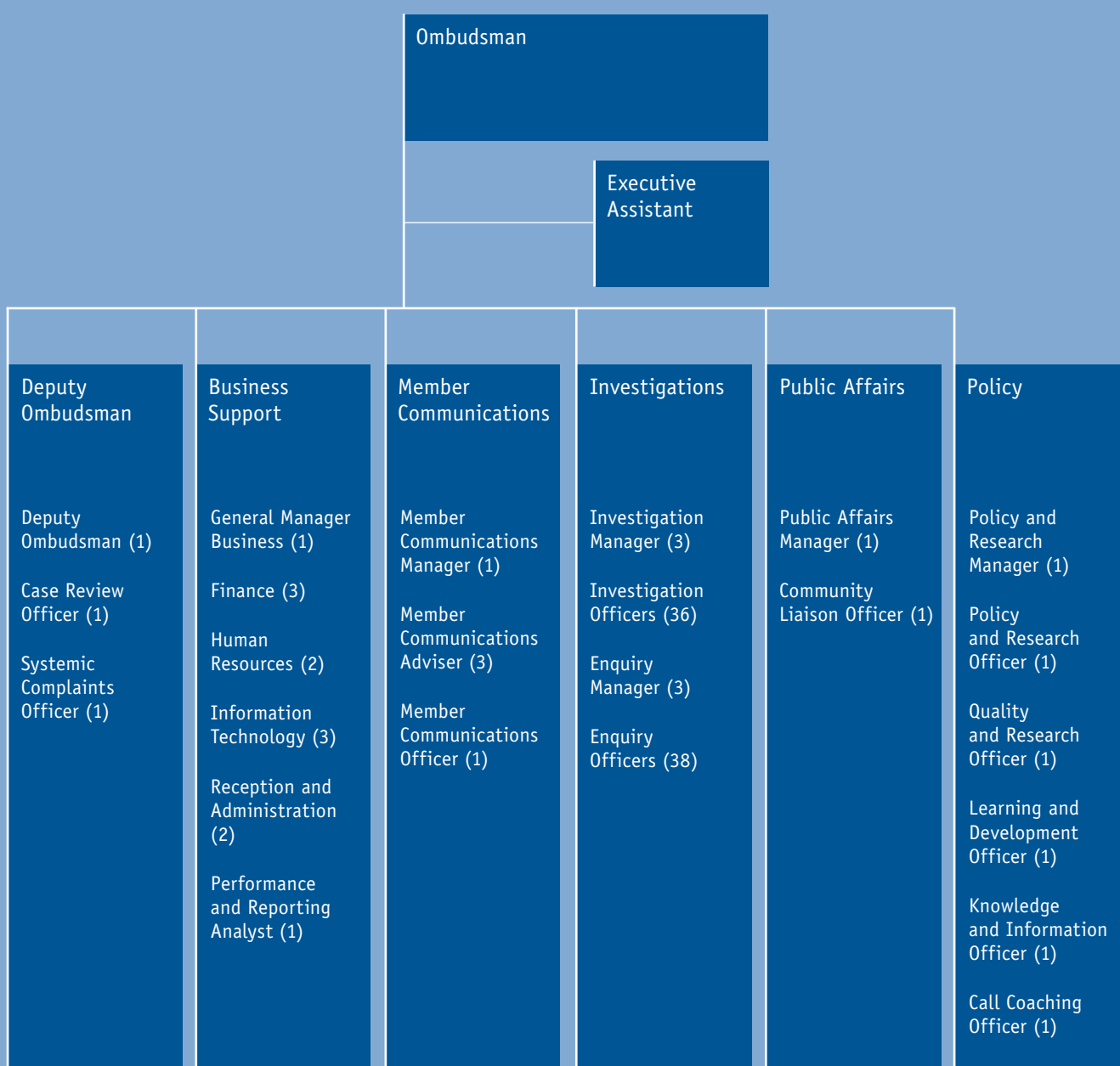
How the scheme is run

# Our people

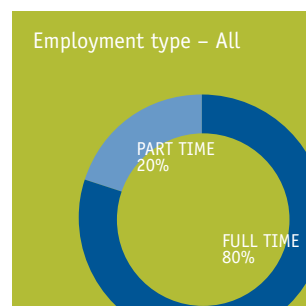
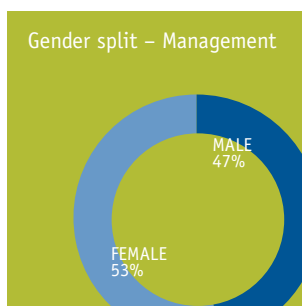
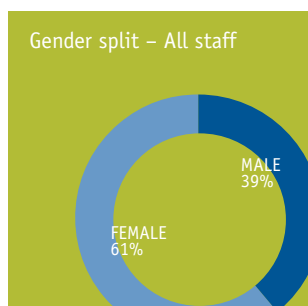
During 2006/07, the TIO has focused on ensuring that it had the appropriate mix and number of skilled staff to enable it to deliver on its mission of “providing free, independent, just, informal and speedy resolution of complaints”.

The increased complaint load during the year resulted in staff numbers growing to 99.5 full-time equivalent staff. A total of 73 per cent of staff were employed in jobs directly involving the investigation of complaints.

The chart below details the structure of the business at 30 June 2007.



# Our people continued



## Recruitment

During the financial year, due to growth and staff turnover, the TIO filled 60 vacant positions.

Staff activity	
Enquiry officers	29
Investigation officers	11
Legal Investigation officers	2
Senior Investigation officers	5
Operational and administrative employees	13

The 60 positions included internal candidates who applied for, and were selected for promotion to, more senior positions. Eight of these were promotions within the investigation area and five moved to operational and administrative roles.

The TIO has found it increasingly challenging to attract suitably qualified applicants for advertised vacancies. This is particularly so with Legal Investigation officer roles. Various strategies have been put in place to target suitable candidates.

## Equal employment opportunity

As part of its aim of becoming an employer of choice the TIO has made some changes to the way it employs people, with the organisation moving to adopt more flexible working hours and also looking at opportunities to diversify the workforce.

This has resulted in some changes in the demographic composition of employees. The graphs above provide a breakdown of the current workforce.

## Staff satisfaction

In November 2006, the TIO undertook its first staff satisfaction survey. In general, the results of the survey indicated:

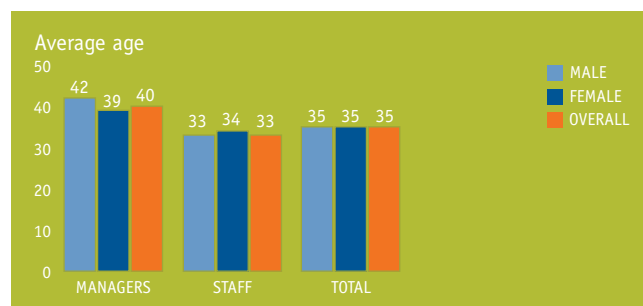
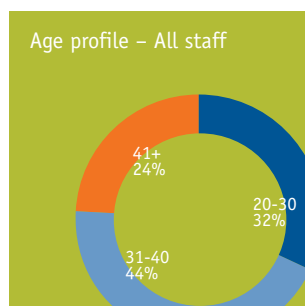
- most people are satisfied working with the TIO and view the office as an employer of choice
- most people value their colleagues and co-workers. This was the strongest influencing factor in people's decision to stay at the TIO
- the majority of people respect their manager and feel that he/she is approachable, skilled and capable
- people are dissatisfied with salaries and benefits and would like more flexibility in their working hours and conditions
- people would like to see information and knowledge shared openly and a strategy to improve communication applied across the TIO
- people are not satisfied with internal procedures and feel that some are not objective, leading to limited opportunities for promotion and career advancement
- people feel that they frequently have too much work to do and that their work causes them stress.

The TIO is acting to address the issues and concerns identified.

## Learning and development

Weekly training sessions to improve the knowledge and investigative practices of staff continued during the year. This involved presentations from internal and external sources, including ACMA, DCITA and members. Presentations also included information about general matters such as regular occupational health and safety refreshers, information on the results of the staff survey, and salary reviews.

External training has also been conducted by Crisis Support Services on telephone helping skills, the management of emotions at work and self care. A program was introduced with Investigation and Enquiry managers receiving training in debriefing skills as a way for them to help staff respond to stressful situations that they encounter in their jobs.

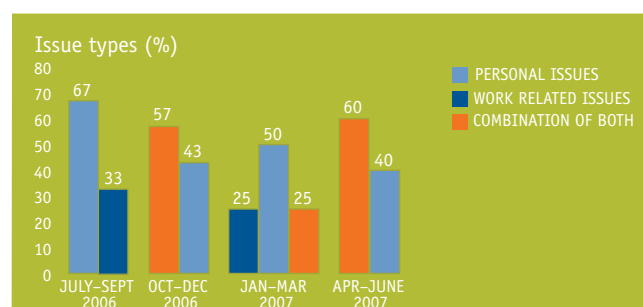
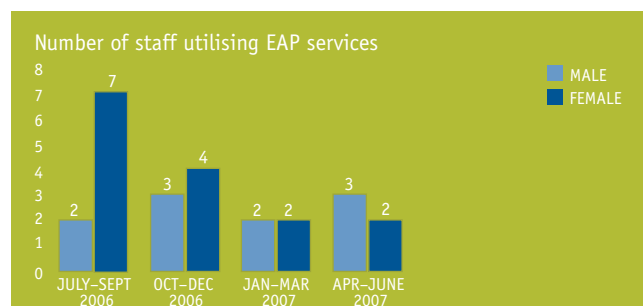


TIO staff also continued to regularly attend meetings of the ANZOA Learning and Development Committee. The TIO hosted a committee meeting which briefed participants on how we use our intranet to ensure ongoing management of our knowledge base and consistent application of position statements and policies.

A growing need for the induction of new staff and an increasing demand for learning and development of existing staff resulted in the appointment of a full-time learning and development officer. A program of introducing individual development plans for staff will continue over the coming year.

At the moment, the TIO is examining internal career paths and assessing how learning and development can enable competency modules to be designed to help people master the skills they need to progress within the organisation. Over the next year the TIO plans to introduce a management development program.

The TIO also provides financial assistance to staff undertaking additional study. This year study assistance was granted to 24 staff who are undertaking a range of degrees and personal development activities.



## Occupational health and safety

The TIO aims to eliminate or minimise the risk of exposure to hazards in the workplace. With the involvement of staff, we are actively monitoring and assessing work practices and the working environment to identify and address hazards before they cause injuries or incidents.

In 2006/07, there were no lost-time incidents recorded. There was, however, an increase in the number of workplace injuries. This was related to the extra hazards involved in moving premises. A few injuries were reported within the first months in the new offices as staff adapted to new desks and chairs and undertook the required ergonomic adjustments.

## Employee assistance program

TIO employees and their families have access to a confidential counselling service. The number of staff using this service gradually decreased during the year, with help being sought for personal issues in most cases. All staff are reminded of the existence of this program.

## Flu shots

In April 2007, the TIO offered all staff the opportunity to be vaccinated against the influenza virus. Forty staff received vaccinations.

How the scheme is run

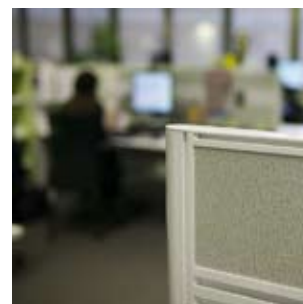
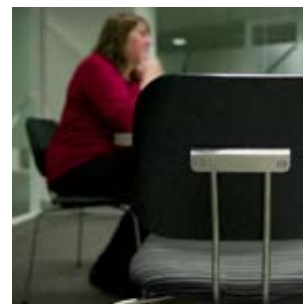
# Environmentally friendly offices

The TIO has always been conscious of the greater environment and has made recycling an everyday part of office life.

The move to new premises at 595 Collins Street, Melbourne in December 2006 has allowed us to go much further in protecting the environment and make savings to our operating costs at the same time.

Lighting in the new office is only activated while staff are in the immediate area. After 10 minutes of no movement lights turn off. The lights are also sensitive to ambient light levels. On a sunny day the lights around the perimeter of the office dull but maintain a healthy level for staff. These two features save around 80 tonnes of carbon dioxide emissions a year. The cost of the lighting management system was \$37,000, which was paid with a loan from the Sustainable Melbourne Fund. The loan will pay for itself in four years of electricity bill savings.

The TIO's environmental impact has been further reduced by careful selection of furniture and fittings. All desks have been built using non-toxic wooden compounds and glues, and some of the office chairs have even been built from recycled mobile phones.



# How we handle complaints

## Alternative dispute resolution

The TIO is an alternative dispute resolution (ADR) body. Alternative dispute resolution is a means of settling a dispute outside a courtroom. Trying to settle disputes through the courts can be difficult, time-consuming and costly. ADR is a more accessible and informal way of resolving a complaint. The TIO's role is to help consumers and telecommunications companies resolve complaints together.

The TIO investigates complaints by considering the facts provided by both parties – that is, the individual or business with a complaint, and their telephone or internet service provider. When the TIO helps to resolve complaints it considers not only the law and good industry practice but also what is fair and reasonable in all the circumstances.

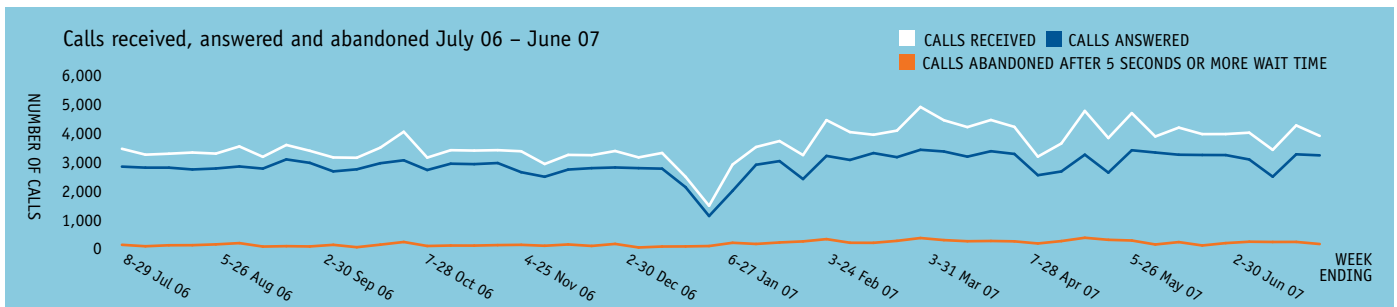
The TIO stays independent of both parties at all times and does not take on a consumer advocacy role.

## Complaint classification

Complaint resolution involves facilitated negotiated resolution at Level 1 and Level 2 and formal investigation at Levels 3 and 4.

	Action	TIO scheme	Mobile Premium Services Industry scheme
Level 1	Most complaints are classed as Level 1 and are referred back to the service provider. This gives both parties a last chance to resolve the complaint without the TIO becoming formally involved. Once a member is notified of a Level 1 complaint, either by the TIO or by the complainant, the provider has two weeks to resolve the complaint with the consumer.	93% of complaints (88,704) were resolved at Level 1, the highest percentage for the last three years. A contributing factor is that some companies are actively trying to resolve complaints at Level 1, before they are formally investigated by the TIO.	97.3% of MPSI complaints (6,894) were resolved at Level 1.
Level 2	Complaints that cannot be resolved at Level 1, either because the TIO considers that the proposed outcome is not fair or reasonable, or because the TIO has not seen enough evidence to assess whether the proposed outcome is fair or reasonable, are raised to Level 2. Level 2 complaints give the member and consumer a last chance at informal resolution, a process facilitated by the TIO.	6.1% of complaints (5,791) resolved.	2.6% of complaints (181) resolved.
Level 3	Level 3 complaints are a formal investigation with an evidence-gathering focus. They require TIO analysis, targeted questioning and assessment in relation to ACIF code breaches (see Industry codes, page 68). They still allow members and complainants to resolve a complaint by liaising with one another to achieve a fair and reasonable outcome, as opposed to the more informal agreed outcome at Level 2. Where a fair and reasonable outcome is not offered by a member, the TIO may elect to make a binding (on members) determination to the value of \$1,200.	0.9% of complaints (827) resolved.	0.1% of complaints (10) resolved.
Level 4	<p>If the member has failed to respond to a Level 3 complaint within the required timeframes, the complaint may be raised to Level 4. This is known as an administrative Level 4. Alternatively, if the TIO determines that the outcome of a Level 3 complaint is not fair or reasonable, or we have not seen enough evidence from the member to determine whether it is fair or reasonable and the amount in dispute exceeds \$1,200, the TIO may escalate to Level 4 for further investigation and possibly determination.</p> <p>In determining whether a complaint should be escalated to Level 4, we will also have regard to the amount of the dispute – for example, if it is above \$1,200 – and the estimated additional time investment that will be needed to resolve the matter. Once a Level 4 investigation has been completed the TIO has the power to either dismiss the complaint or make a binding determination or give a direction up to the value of \$10,000. We can also make a recommendation up to \$50,000.</p>	0.1% of complaints (55) resolved.	0.01% of complaints (1) resolved.

# How we handle complaints *continued*



## Determinations and directions

Where a complaint cannot be conciliated so that a fair and reasonable outcome is achieved the TIO has the power to make a “determination” or a “direction” that is binding on the member but not on the complainant. At Level 4 the TIO’s binding powers are limited to determinations or directions to the value of \$10,000. In late 2005/06 the maximum value of Level 3 determinations or directions was increased from \$400 to \$1,200.

While determinations and directions are binding on members, complainants can elect to accept or decline them. However, after the TIO has made a determination our investigation is complete and the complaint is closed.

In addition to binding decisions, the TIO can make non-binding recommendations to members, provided that these do not exceed \$50,000. Members should give consideration to the TIO’s recommendations and provide a response. The TIO outlines in its annual report instances where members have not followed through with TIO recommendations. However, in the 14-year history of the TIO, non-binding recommendations have been rare and none has been rejected.

In 2006/07, 56 complaints were raised to Level 4 and 46 Level 4s were completed.

## Reviews

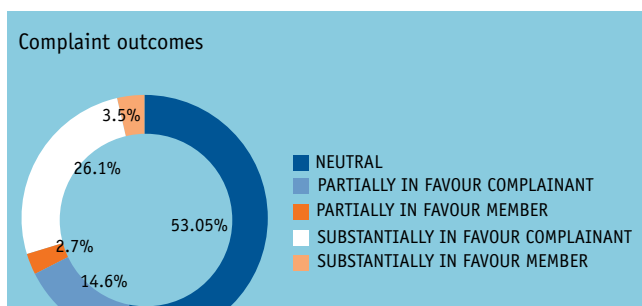
This is the final step in the TIO’s investigative process. The Review Officer reports directly to the Deputy Ombudsman. The officer conducts an independent assessment of the investigation and evaluates whether the investigating officer considered all of the available information before making a decision.

While the Review Officer’s role is primarily to ensure that a fair and reasonable outcome has been obtained, consideration must also be given to the TIO’s power to investigate the complaint in the first instance, to relevant law and industry codes, to the TIO’s position statements and to whether the TIO had regard to the principles of alternative dispute resolution.

The Review Officer can be asked to review the outcome of enquiries, Level 1, 2, and 3 complaints and, if required, administrative Level 4 complaints.

In 2006/07, 260 reviews were requested, compared with 266 the previous year. Of these, in 63.8 per cent of cases, the Review Officer’s findings mirrored that of the Enquiry or Investigation Officer, so no further investigation was warranted. In 24.6 per cent of cases, additional information was sought by the Review Officer before it was concluded that a fair and reasonable outcome had been achieved and in 8.8 per cent of cases the findings were overturned and the complaints were returned to the relevant staff member for additional investigation and possible escalation. In 2.7 per cent of cases, while the overall findings were not overturned, additional evidence or information was obtained by investigative staff before the TIO was satisfied that the outcome was fair and reasonable.

One of the main achievements in the reviews area in 2006/07 was to remove the backlog of complaints awaiting assessment. At the beginning of the year, there were 100 cases waiting to be reviewed, with an estimated timeframe of around 22 weeks. As of 30 June 2007, there were nine cases awaiting review and the timeframe for these to be completed was two to four weeks.



## Call handling performance

The TIO aims to answer 80 per cent of calls within 60 seconds.

The average weekly number of calls received in 2006/07 was 3,607, up from 2,948 in 2005/06, an increase of 22.4 per cent. Calls increased steadily for most of the year, reaching a high in early March, with 4,899 calls in a week. May and June saw a slight fall when calls were closer to 4,000 a week. As usual December was the quietest month, with closer to 3,000 calls some weeks.

The service level achieved was 45.9 per cent of calls answered within 60 seconds, compared with 79 per cent the year before. The restriction on recruitment due to a lack of space at the TIO's former premises at 114 William Street and the significant growth in demand after January 2007 were the primary reasons for the TIO not meeting its service level.

The TIO answered an average of 2,881 calls a week in 2006/07, 15 per cent more than last year. Ten per cent of callers (about 350 calls) routinely hang up after hearing the introductory message advising them that the TIO is an office of last resort. The number of people who abandoned their calls after they had waited more than five seconds averaged 164 a week, a significant increase from 65 a week in 2005/06. An average of 250 callers a week were blocked by the TIO's phone-answering system as there was insufficient staff to handle them.

## Complaint resolution times

### Complaint resolution average (in days)

Year	Level 2	Level 3	Level 4
2004/05	65	88	110
2005/06	79	108	164
2006/07	102	155	188

Level 1 complaints are closed on the day that they are logged and only reopened if the complainant returns to the TIO after contact with the member and the TIO determines that the complaint merits formal investigation.

With Level 2 and 3 complaints, specific actions – such as assessing responses from members and contacting complainants – have benchmark timeframes. The average resolution benchmark for Level 2 cases is 77 days, Level 3 cases is 91 days and Level 4 cases is 90 days.

In 2006/07 the average resolution time for Level 2 complaints rose from 79 to 102 days. Level 3 resolution times rose from an average of 108 to an average of 155 days, and Level 4 complaints rose from an average of 164 to an average of 188 days. Measures put in place to pare these resolution times back towards the benchmarks have achieved some initial success.

## Complaint outcomes

Upon closure of Level 2, 3 and 4 complaints the officer handling the matter assigns an outcome indicator. This is based on their understanding of whether the complaint was resolved partly or substantially in the complainant's favour or partially or substantially in the member's favour. Neutral outcomes are also recorded but these are mainly an administrative action where a Level 2 or 3 complaint has not yet been resolved and requires escalation, or where a complaint has several "issues", only one of which was the subject of formal investigation. In 2006/07 complaints with neutral outcomes rose from 42.3 per cent to 53.05 per cent.

Complaints resolved partially or substantially in favour of complainants dropped from 16.2 per cent to 14.7 per cent and 29.0 per cent to 26.1 per cent respectively. And complaints resolved partially or substantially in favour of members dropped from 3.1 per cent to 2.7 per cent and 8.0 per cent to 3.5 per cent respectively.



# TIO scheme



## Keywords

The TIO records complaints under the headings of Landline, Mobile and Internet, with keywords used to describe the subject matter of complaints – for example, billing, payments or faults.

The TIO implemented its revised complaint keyword categories in 2006/07. The keywords were changed because providers increasingly focus on functionality rather than technology, and consumers are often not aware of the underlying technology of their services. The analysis that appears in the following pages is based on the new keyword categories.

The following recommendations were implemented at the beginning of 2006/07.

- The TIO ceased recording internet complaints by technology (for example, ADSL, dialup, cable or wireless).
- The TIO now uses a three-tier, rather than a four-tier, keyword structure to record complaints.
- Keywords describe the subject matter (for example, billing) rather than the type of service (for example, mobile). The system still notes whether complaints relate to landline, mobile or internet services.
- The TIO keywords are aligned with ACIF codes. If certain keyword sequences are entered in the complaints database, staff are prompted to ask complainants specific questions aimed at establishing whether a possible code breach has occurred.

Keywords are linked to the TIO's position statements where appropriate. If TIO staff enter a particular keyword into the TIO's complaints system, a link to related position statements will appear.

In addition, several of the TIO's existing keyword categories, such as Contracts, Customer Service and Phonecards, have been reworked so as to improve the quality of the TIO's data.

One of the consequences of the keyword changes is that direct comparison with TIO statistics from previous years is not possible, although broad comparisons have been made where appropriate.

**Unless it is stated otherwise, all complaints referred to in the analysis section (TIO and MPSI schemes) are complaint issues. Please refer to the graphic on page 3 for an explanation of the TIO's complaint handling terms.**

## Billing and Payments

Service type	2006/07	2005/06	% change
Internet	9,933	5,385	84.5%
Landline	12,902	13,725	-6.0%
Mobile	13,083	15,210	-14.0%
Total	35,918	34,320	4.7%
% of all complaints	22.9%	26.9%	

This year the Billing category was renamed Billing and Payments. Previously, payment complaints were listed under the Billing category, so the change has not had any impact on the number of complaints recorded. The change allows better identification of issues related to payment such as direct debit complaints.

A total of 35,918 billing complaints was recorded in 2006/07 (compared with 34,320 in 2005/06). This represented 22.9 per cent of all complaints, down from 26.9 per cent in 2005/06.

Before 1 December 2006, complaints about mobile premium services were recorded under Billing and Payments. From 1 December 2006 these complaints were listed separately under complaints against the MPSI scheme, reducing the number of billing complaints the TIO would otherwise have recorded.

See Mobile Premium Services Industry Scheme, page 59, for further information on mobile premium service complaints.

### Bundled contracts

One of the more significant features in the Billing and Payments category was the identification of the issues of the bundling of contracts, where the service provider supplies several types of service on the one contract. Discounts are usually offered on one or more of the services as an incentive for the customer to bring all their business to the provider. Problems arise when customers are confused by the bill and it can be difficult to determine if the discount has been provided. During the course of investigations, the TIO has found that the billing is often correct, but the customers may not have received adequate explanation of the billing and applicable discounts.



The TIO records complaints under the headings of Landline, Mobile and Internet, with keywords used to describe the subject matter of complaints – for example, billing, payments or faults.

### Capped plans

Capped plans also featured heavily in Billing and Payment complaints. These are plans where the customer has signed up their fixed, internet or mobile usage at a “capped” rate. An example is where customers agree to a monthly mobile plan which might include, say, \$200 of voice calls and \$100 of text calls for \$49. These plans are no doubt beneficial for customers, with the Australian Competition and Consumer Commission saying that capped plans helped cut prices charged to customers for mobile telephony by 6.5 per cent in the 2006 financial year.<sup>1</sup>

The TIO is concerned that the way these plans are marketed may confuse customers. In 2006/07, the TIO received many complaints where the customer believed the capped rate included all calls and was not aware that they could incur other charges, such as data calls to access the internet or premium SMS charges. Customers may also not be aware that they will incur further charges if they exceed the value of calls in the plan.

When investigating complaints about capped plans, the TIO refers to its position statement on *Use of marketing terms such as capped, unlimited and free*, introduced in September 2006. The TIO believes that products should be marketed as capped, unlimited or free only when they are in fact capped, unlimited or free in the everyday sense of those words. Companies may confuse customers if they use these terms in another sense, either directly or indirectly, such as through qualifying contractual terms and conditions.

When the TIO receives a complaint that involves the use of terms such as capped, unlimited and free, we may consider points including:

- the way the product has been promoted – including the target market and the overall impression generated by any promotional strategy and materials
- the comprehensibility and level of complexity or intricacy of the product’s terms and conditions
- any oral information given to the customer at the point of sale
- any qualifying information

- how any qualifying information was communicated, including the prominence given to that information
- whether the use of any term conveys a false impression, and whether the use of any term is or may be misleading and/or deceptive
- whether the provider offers a way for the customer to monitor usage
- whether the provider has told the customer about the monitoring tool and the need for them to use it
- the accuracy and usability of any monitoring tool, including how often the provider updates usage
- what action, if any, the provider has taken to notify a customer that they are about to reach, or have reached, a limit
- what, if any, information the provider has given to the customer about what happens after they reach a limit.

For plans marketed as capped, the TIO may also consider whether it was reasonable in the circumstances of the complaint for the customer to believe the product included a ceiling on the amount they could be billed.

### Internet (Billing and Payments)

The number of internet Billing and Payments complaints rose by 84.5 per cent, from 5,385 to 9,933. Some of the increase was attributable to more households and small businesses connecting to the internet. Other contributing factors were the bundling of contracts and problems with direct debit payments. One company accounted for 3,107 internet Billing and Payments complaints, or 31.3 per cent.

#### Direct Debit complaints

Direct debit complaints rose from 623 to 2,011. A large number (613) arose due to one company not cancelling the direct debit arrangements after its customers terminated their internet service. Some of these complaints required escalated investigations before the direct debit was discontinued and monies were refunded. Not surprisingly, the number of complaints received about direct debit payments not being cancelled (903) and direct debit payments not authorised (702 complaints) far outnumbered the complaints received about direct debits not being activated on request (55 complaints). The TIO referred the company to the Australian Communications and Media Authority (ACMA) due to its large number of direct debit complaints.

<sup>1</sup> Page 98, ACCC *Telecommunications Reports 2005/06* – Report 2, May 2007.

# TIO scheme *continued*

## CASE STUDY

### Direct debit charges

#### The complaint

A customer complained to the TIO that he had incurred internet charges when the service had not yet been provided.

He said he had been told that no part of his service would commence until the end of a 10-day cooling-off period, but charges had been debited directly to his bank account. He said that as there was no notice that a direct debit would take place, the account was overdrawn, resulting in additional bank charges. Two weeks after the direct debit occurred, his service provider told him that, while his order for a broadband service had been accepted, there was no guarantee it could be installed.

The complainant said the service provider told him that connection might take up to two months. He was seeking to have the contract cancelled and the charges refunded to allow him to apply for ADSL with another provider.

#### TIO response

The TIO asked the provider to advise how it believed the matter could be resolved. The provider said the ADSL installation process began 10 days after payment for the initial charges was received by direct debit. It said it could take 3 to 10 days to receive the first payment, 7 to 21 days to accept the order and provision the ADSL service, and a further 7 to 10 days for the customer to receive a modem. It said it could confirm that it would be able to connect a service for this customer.

The TIO told the provider that it was concerned that the provider might have breached Clause 7.3.1 of the ACIF *Billing Code* by:

- seeking payment for services that had not been provided and
- not being able to confirm that it could meet the terms of the contract by connecting the service.

The code requires that suppliers be able to verify that charges levied against customers are what the customer has requested, utilised or contracted to receive.

#### The outcome

The provider offered to cancel the contract, allowing the complainant to seek services with another provider, and to refund all charges, including bank fees, associated with the direct debit.

### Credit Adjustments

Complaints about credits not being applied to accounts or being incorrectly applied increased from 553 to 796. Many of these problems related to discounts that may apply to bundled contracts. Other problems may occur where credits offered to customers in resolution of billing or customer service disputes are subsequently not applied.

### Data Usage Charges

Complaints about usage fees on internet services rose by 93.5 per cent from 899 to 1,740.

Complaints about data usage can arise from a number of issues. Some involve relatively new users who are not aware of how to monitor their usage. Problems sometimes occur when parents allow their children to download music and videos and play online games – all of which involve large amounts of data.

File-sharing programs can also result in high usage charges. The TIO believes it is important for ISPs to provide practical information to customers about how to monitor usage and the types of activity that can amount to high usage. Even when customers complain about unexpectedly high bills, the TIO finds that ISPs often do not explain how to monitor and limit their usage and therefore costs.

Other complaints arise when customers expect their service to be “shaped” or “throttled” when they exceed the usage limit on their plans. Throttling is when an ISP slows the download speed, often to speeds similar to those of a dialup service. Customers will not be charged for excessive data if their plan is throttled.

Where an account is not throttled, customers are charged for excess usage when they exceed their download limit. Costs can be quite significant, with some complainants having received bills for several thousand dollars. Customers have a responsibility for monitoring their usage. However, when assessing complaints where a user has incurred unexpectedly high costs for excessive downloads, the TIO has regard to its position statement *Unlimited credit – financial over-commitment*. This says that one of the things that the TIO would consider when assessing such a complaint is that:

“Once the provider became aware or ought reasonably to have become aware that the customer was incurring a disproportionate amount of debt, whether the provider took steps to minimise or limit the customer’s access to credit or exposure to debt and, if so, the effectiveness of those steps.”

## Landline (Billing and Payments)

Landline Billing and Payments complaints dropped slightly this year, from 13,725 to 12,902.

### Internet Diallers

Calls to internet diallers continued a steady decline, with only 16 complaints about calls to 190x numbers (down from 125) and 708 complaints about calls to international destinations (down from 1,823). At their peak in 2003/04, 3,770 complaints were registered about these issues. One TIO member responsible for a large number of internet dialler complaints to international destinations took the step of closing access to number ranges used by internet dialler content providers. The decrease in internet dialler calls can also be attributed to the decline in dialup internet services, as calls to internet diallers can only be made when connected to a dialup internet service. The decline in complaints about internet diallers is typical of the TIO’s experience where the advent of new technology and products can lead to a sudden increase in complaints before these decrease as the products are in turn replaced by different services and, consequently, different complaints.

### Direct Debit

As with internet complaints, direct debit complaints for landline services increased significantly, from 254 to 565 (a 122.4 per cent increase). Half of these complaints (282) involved one service provider.

## Mobile (Billing and Payments)

The TIO logged 13,083 Billing and Payments complaints for mobile services in 2006/07. From 1 December 2006, complaints about the billing of mobile premium services were separated from general TIO complaints and registered under the MPSI scheme. It is therefore not possible to compare the total number of mobile Billing and Payments complaints with those of previous years. More specific complaints under the Billing and Payments category – for example, direct debit complaints – are, however, comparable.

### Debt on Prepaid Mobiles

The industry improved its practices with the billing of prepaid services. Complaints about debt accruing on prepaid mobiles fell significantly to 14 from 109 in 2005/06 and 143 in 2004/05. The TIO continues to be vigilant for complaints of this nature as they have the potential to affect a particularly vulnerable customer base.

### Direct Debit

In contrast to landline and internet services, complaints about direct debit payments for mobiles decreased from 427 to 414.

# TIO scheme *continued*



## Complaint Handling

Service type	2006/07
Internet	7,742
Landline	8,539
Mobile	8,993
Total	25,274
Percentage of all complaints	16.1%

A total of 25,274 complaints were recorded against the newly introduced category of Complaint Handling. These complaints were evenly distributed between landline, mobile and internet services. In 2005/06, all complaints related to complaint handling were recorded under Customer Service. For this reason direct comparison is not possible.

Complaints in this category are consistent with categories identified in the *Complaint Handling Code* (See Industry codes, page 68) and cover the following:

- Failure to Refer to the TIO
- Failure to Record a Complaint
- Failure to Escalate a Complaint
- Failure to Advise on the Outcome of a Complaint
- Failure to Action an Undertaking
- Failure to Acknowledge A Written Complaint
- Charging for Handling a Complaint
- Charging for Itemisation of a Disputed Bill.

A total of 70.1 per cent of complaints in this category were logged under the Failure to Refer to TIO sub-category. The large number of complaints registered in this category highlights how vital it is that industry adheres to its own *Complaint Handling Code* and how important it is that suppliers adequately address complaints from their customers and advise them that they can have their complaint investigated by the TIO.

The TIO will closely monitor this category to gauge and provide feedback on whether the telecommunications industry is providing a better complaint handling service to its customers.

<sup>2</sup> The code requires service providers to retain material collected and recorded throughout the complaint handling process for two years following closure of complaint. More information about service providers' obligations under the *Complaint Handling Code* may be obtained in the brochure *Complaint Handling – Your Obligations as a Service Provider*, which is available at [http://www.commsalliance.com.au/about\\_us/factsheets](http://www.commsalliance.com.au/about_us/factsheets).

## Internet (Complaint Handling)

Although fewer Complaint Handling complaints were received about internet service providers than their counterparts in landline and mobile services, proportionately (about 16 per cent of complaints for each service) the totals were similar. Complaints received about ISPs totalled 7,742, about landline providers 8,539, and about mobile providers 8,993.

During the course of some investigations, the TIO was told by (usually smaller) ISPs that they do not keep any records of customer service interactions and have no means of tracking and therefore responding to complaints in accordance with the rules of the *Complaint Handling Code*.<sup>2</sup> Keeping records of interactions with customers is important, especially if a dispute subsequently arises.

### Failure to Refer to the TIO

The *Complaint Handling Code* requires providers to advise customers whose complaint remains unresolved about their right of recourse to the TIO. In order to capture whether this is occurring, the TIO now routinely asks complainants if their provider referred them to the TIO to deal with their unresolved complaint. Complainants reported on 4,855 occasions that their provider had not referred them to the TIO.

### Failure to Action Undertakings

There were 1,441 complaints about suppliers failing to action undertakings – that is, not providing an agreed outcome to a complaint or undertaking other agreed actions. The type of complaints recorded in this category were:

- suppliers failing to send a refund cheque
- suppliers telling the customer a supervisor would call them back and no call was received
- suppliers failing to provide an agreed credit on an account.

### Failure to Escalate a Complaint

Suppliers not escalating a complaint – that is, not referring a complainant to a manager or supervisor upon a complainant's request – resulted in 478 complaints. This number is significantly higher than the 198 complaints received in 2005/06.

### Failure to Acknowledge a Written Complaint

A total of 684 complaints were received about suppliers failing to acknowledge a written complaint. It is a requirement of the *Complaint Handling Code* that a supplier respond to a written complaint within five business days.





## Landline (Complaint Handling)

### Failure to Refer to the TIO

A total of 6,082 complainants reported that their landline provider did not refer them to the TIO. As reported above, this is contrary to the provisions of the *Complaint Handling Code*.

### Failure to Escalate a Complaint

There were 444 complaints where a customer said that their provider had failed to refer them to a supervisor or manager at their request. This compares with 421 complaints last year.

### Failure to Action Undertakings

There were 1,246 complaints about suppliers failing to action agreed undertakings.

### Failure to Acknowledge a Written Complaint

A total of 430 complaints were received about a landline supplier failing to acknowledge a written complaint. When the TIO raised this matter with suppliers, some argued that, because complainants sent letters to the address listed on the bill for payment of cheques instead of the complaint or customer service department, the letter had not actually reached the supplier and hence they did not consider that they had failed to address the complaint. The TIO disputes this position and maintains that correspondence sent to any address associated with the supplier should be acknowledged and dealt with appropriately.

## Mobile (Complaint Handling)

A record high number of Complaint Handling problems – 8,993 – were recorded against mobile phone providers.

### Failure to Refer to the TIO

6,787 complainants with mobile service complaints told the TIO that their supplier had not advised them of their right of recourse to the TIO, a slightly higher figure than that for landline and internet services.

### Failure to Escalate a Complaint

Complainants said that on 393 occasions the customer service representative did not escalate their complaint to a supervisor or manager when the customer requested that they did so. In 2005/06, the TIO received 322 complaints reporting a failure to escalate a complaint.

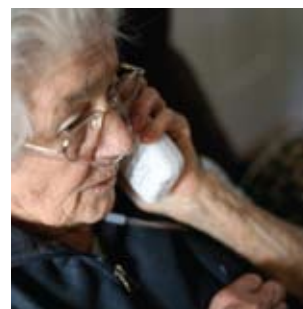
### Failure to Action Undertakings

1,152 complaints were received about mobile suppliers failing to act on undertakings made during the investigation of a complaint. This figure was lower than the number reported for both landline and internet services.

### Failure to Acknowledge a Written Complaint

There were 318 complaints about suppliers failing to acknowledge a written complaint.

# TIO scheme *continued*



## Contracts

Service type	2006/07	2005/06	% increase
Internet	5,819	3,554	63.7%
Landline	3,861	2,820	36.9%
Mobile	8,468	8,456	0.1%
Total	18,148	14,830	22.4%
% of total complaints	11.6%	11.6%	

Complaints in this category rose from 14,830 in 2006 to 18,148, but as a percentage of overall complaints they stayed the same, at 11.6 per cent.

### Advice Provided at Point of Sale

The TIO is now able to capture and report on more specific details about lack of information or misleading advice provided at the point of sale. As with previous years, point-of-sale advice was a major contributor to contract complaints, with the internet category recording 2,820 of these types of complaints and the mobile and landline categories recording 5,412 and 2,160 respectively. Of these complaints, a small proportion was identified as being about cooling-off periods, the identity of the service provider and termination fees. Most (2,447 for internet, 1,958 for landline, and 4,374 for mobiles) were about lack of advice or inaccurate advice about the product and terms, including applicable charges.

### Variation of Terms

A major cause of concern was the large number of complaints about service providers changing terms and conditions during the course of a contract. More information about this topic is covered under the Internet, Landline and Mobile sections.

### Internet (Contracts)

Complaints about internet contract issues increased from 3,554 in 2005/06 to 5,819 in 2006/07. Changes to the TIO's complaint keywords at the beginning of the 2007 financial year allow more complaint data to be captured but mean that it is difficult to make direct comparisons with previous years.

#### Variation of Terms

Variations to contract terms proved to be a major cause of contention in 2006/07, with 587 complaints recorded, compared with 223 for the previous year. A contributing factor was an increase in wholesale prices, which retail internet service providers passed on to customers by increasing charges or decreasing the usage limit under the plan. The TIO issued a media release in February 2007 about this matter. We said that, in accordance with the *Consumer Contracts Code* (see Consumer Contracts Code page 71), a fixed-term contract may be varied without the customer's consent only if the customer:

- is given 21 days' written notice of the change, and
- is provided with a further 21 days to cancel the contract without penalty.

The ISP would be entitled to recover the costs of equipment supplied with the contract, but only if the customer could use that equipment with another ISP.

#### Enforcement of Terms

A new category of complaint issue was introduced this year to capture instances where the complainant believed the enforcement of the terms of their contract was unfair in the circumstances. The TIO registered 750 of these complaints.



## Landline (Contracts)

Landline contractual complaints rose from 2,820 to 3,861 this year – an increase of 36.9 per cent. Traditionally, landline services were provided on request and terminated on request. Many services are now supplied on contract for a minimum period – usually as part of a bundled contract or a “capped” plan inclusive of call charges. In exchange for discounts or extra benefits customers commit to a minimum period of service.

### Sales Tactics

A total of 191 complaints were logged under this new category, designed to record incidents where customers said sales staff used harassing or coercive conduct in order to sign them to contracts. This is substantially less than those recorded for mobile services although it is an emerging area of complaint.

### Variation of Terms

426 complaints were received about variations to the terms of a contract. Because contracts were not common for landline services until recently, the TIO previously did not capture this type of complaint.

## Mobile (Contracts)

Mobile contract complaints remained static in number (8,468 in 2006/07 and 8,456 in 2005/06) but fell as a percentage of all complaints from 6.6 per cent to 5.4 per cent.

This may be due to the fact that the number of mobile services is not increasing as rapidly as in previous years<sup>3</sup> and most customers have probably had a mobile phone for some time and are more aware of contractual issues.

### Sales Tactics

Allegations of sales staff harassing or coercing potential customers to sign a contract accounted for 300 complaints. As this is a new complaint category, the TIO has no comparison with previous years. The higher number of complaints about mobile sales tactics compared with landline (191) and internet (126) is perhaps indicative of the way mobile contracts are sold. That is, in order to obtain a mobile phone, customers generally need to walk into a shop and deal directly with sales staff. On the other hand, with internet services, customers usually sign up via the internet or by phone. For landline services, customers usually arrange a service by contacting the company by phone.

<sup>3</sup> According to *Australian Mobile Telecommunications Industry: Economic Significance & State of the Industry*, published by the Australian Mobile Telecommunications Association: “The number of mobile subscribers in Australia has increased from 6.3 million in 1998–99 to 19.9 million in 2005–06. However, the annual growth rate of subscribers has actually declined from a peak of almost 40% in 2000/01 to just over 8% in 2005/06. IBISWorld forecasts that the growth rate will decline further to 4.5% in 2006/07”.

### Variation of Terms

Complaints about variations to the terms of contracts increased substantially from 191 in 2005/06 to 508. The TIO received complaints from customers who were contacted after signing a contract for a mobile phone and told that the prices and conditions associated with that contract were no longer available. In some instances this occurred three weeks into the period of the new contract. Where the customer did not want to have to pay higher charges for the service, they often returned the handset supplied with the contract and early termination fees were waived.

### Point-of-Sale Advice on Coverage

Complaints about misleading or lack of advice about network coverage rose 346 per cent, from 161 in 2005/06 to 718 in 2006/07. Complaints resulting from Telstra’s phasing out of the CDMA network in rural and regional areas were logged under this category and also the Mobile Faults Coverage category.

Telstra is replacing CDMA with 3G technology (dubbed Next G). Complainants have come to the TIO saying that, although they had been advised that they would receive equivalent or better coverage if they switched from Telstra’s CDMA to Telstra’s Next G network, they have subsequently found that coverage was not as good. The Next G network operates in metropolitan as well as rural and regional areas and was switched on in October 2006.

Telstra has kept the TIO informed about the rollout of the Next G network in rural and regional areas. It says that complaints are more likely to be related to problems with handsets than with coverage. Examples of these issues include:

- using a Next G handset that is configured for 2G services
- a customer using a 2G SIM card in their Next G handset
- a customer using a Next G handset that is not suitable for low signal or fringe areas. Telstra is marketing several handsets that are recommended for rural handheld coverage. External antennas can also be connected to some handsets to maximise signal quality and performance.

Coverage faults related to handsets are more likely to be recorded and investigated as handset faults. (See Mobile Faults Coverage, page 50)

The TIO has an expectation that:

- a handset is correctly configured at point of sale
- handsets are sold suitable to the customer’s needs or stated purpose.

Under the *Customer Information on Prices Terms and Conditions* code (See page 70), when a customer signs a contract for a mobile phone, the supplier must “offer to show the customer a map or diagram indicating the coverage of the network for the mobile service in the area of Australia within which the customer indicates the service is generally to be used”. The TIO would investigate complaints where the service provider or its agent promised coverage in a certain area but the customer was not able to receive coverage in that area.

# TIO scheme *continued*

## CASE STUDY

### Capacity to contract

#### The complaint

A 17 year old went with her father to a mobile phone outlet and, translating for him, helped him sign a \$49-a-month plan, which included \$230 worth of calls.

She claimed to have been told that the service could be barred when the credit expired. She called customer service to arrange this and then proceeded to use the service.

She advised the TIO that the service had not been barred when the cap was reached, as she had expected, but that she did receive a text from the service provider when \$1,000 in charges had accrued. Her father's bank account was then debited \$587, after which he received a bill for \$1,600. The service was subsequently suspended. She then contacted the TIO.

#### TIO response

The service provider told the TIO that the girl had not been advised that she would be notified when her cap was reached. Instead she had been told how to check her usage online. It said that although the father had not appeared to understand all of what was said at the point of sale, he had acknowledged that he understood the terms and conditions (as translated to him) by signing the contract.

It advised the TIO that the complainant would be released from the contract, but that the charges would stand. The TIO did not believe that this represented a "fair and reasonable" outcome, so decided to investigate further.

The TIO then queried why the service had not been suspended earlier. On a \$49 cap, this would have been an acceptable credit control measure when \$587 had accrued. However, the service was not restricted even at \$1,000, at which time the service provider was certainly aware of the charges. Additionally, we pointed out that the *Prices, Terms and Conditions Code* (See Industry codes, page 68) advised companies that they should take extra measures to make sure that non-English speakers and people with disabilities understood the contract.

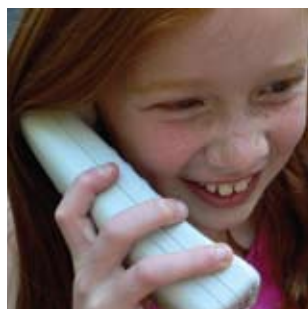
The company responded that this was a matter that should be addressed by the father and the daughter. It believed that discrimination may have been suggested had the contract been refused. Furthermore, it argued that the father was aware that his daughter had a history of high usage and ought to have taken this into account.

The TIO considered two alternatives with regard to the liability of the company. Firstly that, as the service provider had no way of knowing what had actually been said to the father, it should not have allowed the contract to take place at all. Secondly, it was possible that the daughter had not passed on all of the information to her father correctly, or had passed it on selectively, and that she (at least) had not been misled at the point of sale.

#### The outcome

The TIO concluded that the contract should not have been created as the account holder may not have been aware of all of the relevant details and his daughter was too young to agree to a mobile phone contract. It was also taken into account that the account holder was unemployed and his daughter was a student, neither of them having the means to pay the disputed charges.

To settle the matter, the service provider agreed to refund the \$587 debited, and to waive the rest of the charges once the handset had been returned. The complainant agreed to pay \$98, the contractual amount for the two months for which the service was connected and in use.



## Credit Management

Service type	2006/07	2005/06	% change
Internet	1,144	665	+72.0%
Landline	4,523	5,221	-13.4%
Mobile	5,642	5,434	+3.8%
Total	11,309	11,320	-0.1%
% of all complaints	7.20%	8.90%	

Credit management complaints (previously known as Credit Control) remained almost static, dropping slightly from 11,320 in 2005/06 to 11,309 in 2006/07. As a percentage of all complaints, Credit Management improved marginally, falling from 8.9 per cent to 7.2 per cent.

Credit management keywords were expanded in 2006/07 and now cover specific topics, including: credit assessments, conduct of collections agents, credit default problems, failure to suspend collection action when there is a payment arrangement or bankruptcy, over-commitment, refusal to negotiate or renegotiate a payment arrangement based on individual circumstances, and suspension or disconnection of a service without notification or where there is a disputed debt.

Further descriptions of the keywords used in credit control complaints are contained in the paragraphs below under internet, landline and mobile complaints.

### Credit Management Code

Delayed provisions of the *Credit Management Code* came into effect in October 2006 (See Credit Management, page 71). The delayed provisions include clauses that:

- suppliers must have a financial hardship policy
- notification of the policy must be sent to the customer with any payment reminder notices
- suppliers must assess the customer's individual circumstances
- suppliers must be willing to review any financial arrangement if the customer's circumstances change.

Although the code provisions took effect part way during the financial year, it is worth noting that complaints about suppliers refusing to negotiate and renegotiate payment arrangements increased for internet, landline and mobile services. This is of particular concern with mobile services, where complaints rose by 41.1 per cent.

### Credit Management – Payment Arrangement

Service type	2006/07	2005/06	% change
Mobile	968	686	41.1%
Landline	877	755	16.2%
Internet	101	52	113.5%

### Suppliers not Suspending Credit Action when Notified of a Disputed Debt

Many credit management complaints relate to suppliers attempting to recover payment for amounts in dispute. In some of these complaints the service is suspended or disconnected, while in others, suppliers may engage collections agents to collect the disputed debt, or even list the debt with a credit reference agency. In some cases, the billing systems of some service providers do not allow them to quarantine disputed debts from non-disputed debts.

Taking action to recover disputed debts is a breach of the *Credit Management Code*. The TIO believes that suppliers need to improve their systems to quarantine disputed debts from further credit action until any dispute is resolved. The TIO expects complainants to pay all portions of an account that are not in dispute.

# TIO scheme *continued*

## Internet (Credit Management)

Complaints about credit management for internet services rose by 72.0 per cent from 665 in 2005/06 to 1,144 in 2006/07.

### Collections Agents

The TIO recorded 217 complaints where the customer claimed that a collections agent had taken action to collect a debt after the customer had notified the provider that the debt was in dispute. Five complaints were made about collection agents using harassing conduct to coerce a customer to make payments.

Phone companies are responsible for the actions of their collection agents. Under the *Credit Management Code*, debt collectors who are agents of a phone company must not act in a way that involves threatening or offensive behaviour, harassment or otherwise unlawful actions.

### Credit Defaults

Complaints about the listing of a debt with a credit reporting agency are separated into the following categories:

- disputed debt – where a default is listed for a debt that is in dispute (74 complaints)
- failure to update – where a default listing has not been updated to reflect payments made (five complaints)
- notification – where the supplier has not notified its customer that a default is about to be listed with a credit reporting agency (37 complaints).

There is no comparison with previous years as the TIO did not capture complaints specifically about credit defaults until this year.

### Payment Arrangements

Refusal to negotiate a payment arrangement resulted in 76 complaints. Refusal to renegotiate a payment arrangement when the complainant's financial circumstances changed resulted in 20 complaints.

### Suspension/Disconnection of Services

The suspension or disconnection of an internet service when there was a dispute about the debt led to 153 complaints. There were 255 complaints about the suspension or disconnection of an internet service without notice.

### Over-commitment

Over-commitment is the term used to describe complaints where:

- the customer has been billed an uncharacteristically high value of telephone calls or internet charges
- the service provider ought reasonably to have become aware (by monitoring the debt level of the customer) that the customer was incurring an unusual amount of debt
- the service provider might have been able to take steps to minimise or limit the customer's access to credit or exposure to debt.

The TIO divides over-commitment complaints into the following categories:

- complaints about the adequacy of supplier controls – where a provider has not provided adequate means of limiting the customer's risk of over-commitment (126 complaints)
- advice on credit control tools – where the customer claims that there was inadequate advice regarding the tools offered to minimise the risk of over-commitment (73 complaints)
- usage meter – complaints that the supplier does not provide a means for the customer to monitor their expenditure, or the means provided is faulty or not up to date (49 complaints).

In total, there were 242 complaints relating to over-commitment issues in 2006/07, compared with 98 in 2005/06. Over-commitment complaints were not divided into specific categories in 2005/06, making it difficult to make direct comparisons with this year.

It is apparent that more customers are complaining about receiving larger-than-expected bills. This can be attributed to a number of factors. One is that internet speeds are usually much faster now than in previous years and therefore customers are able to download high amounts of data within a relatively short time. This leads to customers incurring higher usage charges – especially if they are unaware that their “unlimited plan” may in fact incur high charges once the limit is exceeded.

Internet customers may also be unaware that downloading music files or videos from websites such as You Tube consumes high amounts of data and therefore may lead to unexpectedly high bills. Internet customers may also be unaware that file-sharing programs may result in usage being incurred on their plans, even when they are not using their computer.



#### CASE STUDY

## Landline over-commitment

### The complaint

The complainant contacted the TIO over a disputed bill consisting of international calls made by a student lodging with her.

She said that she and the lodger had agreed that he would use his mobile phone and not the complainant's home phone. The complainant's phone accounts were usually around \$250. Soon after the student moved in, she received a letter notifying her that her phone bill, which would be issued shortly, was higher than normal. She was shocked when she received a phone bill for over \$10,000. The complainant suffered a major illness while the student was staying with her and was in hospital for some of this time. She was therefore not in a position to know whether he was using her phone. The lodger told the complainant that his mother would pay the bill. She contacted the mother who said she had transferred \$10,000 to the complainant's bank account. Shortly afterwards the student was deported.

The phone company insisted that the complainant was liable for the whole bill and she reluctantly entered into a payment arrangement, believing that the lodger's family would reimburse her. When she realised that the family would not pay for the disputed calls, she ceased making payments and was credit defaulted. The phone company offered to reduce the debt to about \$8,000. The complainant rejected this outcome.

### TIO response

The TIO formally investigated the complaint and asked the phone company to respond to the complainant's argument that it should have notified her that her account was higher than normal and taken action to limit the charges.

### The outcome

The phone company said it had sent several letters to the complainant and had left three phone messages advising her that there were higher than normal charges on her account. As she was in hospital, she did not receive this information. A note on the phone company's system indicated that, two months before the bill was issued, it intended restricting the service to local calls only due to the high usage. An error was made and the service was not restricted.

The phone company agreed to remove charges of \$7,600 incurred after the date on which its system indicated the service should be restricted. It also removed the credit default. The complainant had previously made payments of \$400 and agreed to pay the balance of \$566.

# TIO scheme *continued*

## CASE STUDY

### Mobile phone over-commitment

#### The complaint

On starting a mobile phone contract, the complainant was asked if she wanted global roaming activated.

She agreed, but said subsequently that the function itself, and its potential to incur significant charges, was not explained to her at the point of sale nor at any other time. Her average monthly bill was about \$30. Some time later she took her SIM card with her overseas. She said this was to access the information on it if necessary but she had not used the card at all while away.

She told the TIO that her SIM card had been stolen while she was overseas, but that she did not become aware of this until after her return to Australia 10 days later. She claimed to have disputed these charges with her provider when she became aware of them and contacted the TIO the following year when she realised that a default had been applied to her credit history. By this time charges to the value of \$18,000 had been billed to her account.

#### TIO response

The TIO referred the complainant to a senior level of complaint at the company concerned, which at that time was claiming that the card had been used fraudulently. It offered to halve the debt to \$9,000 and remove the default listing. The TIO then decided to formally investigate the issue on the basis of financial over-commitment – that is, that the provider had effectively extended excessive credit to the customer. The TIO approached the member and asked it to supply evidence with regard to:

- the information that was provided to the complainant about charges for global roaming
- any processes it may have in place to monitor over-commitment, and how this is calculated in relation to a customer's average spend
- the amount it claimed to have paid to its global roaming partners, and
- why another \$3,000 was allowed to accrue after the member became aware of the high usage.

The complainant provided documents confirming that she was not in the country from which the calls had been made at the relevant time.

The service provider advised the TIO that, when it first became aware of the significant usage, \$15,000 had already been billed to the customer's account.

#### The outcome

The TIO generally considers that customers are responsible for ensuring the security of their telephone, unless there are extenuating circumstances. In most cases the account holder is liable for the bills that accrue from their telephone's use even if they did not give permission to other parties to make calls. Service providers are expected to have measures in place to limit excessive usage. However, international roaming charges can cause difficulties in this context as the provider does not always have immediate access to a customer's billing information, which is sent from other carriers.

In this case, the provider told the TIO that it had an agreement in place with all overseas carriers such that high usage (which is defined as being more than \$100 in 24 hours) needs to be reported within 36 hours. Because no action was taken at that time, the provider agreed to waive all of the charges that had accrued after that 36-hour period, which reduced the amount considered owing to \$4,500. The TIO and the complainant accepted this offer as being fair and reasonable in the circumstances, and a payment arrangement was concluded for the outstanding amount.



## Landline (Credit Management)

Landline credit management complaints dropped to their lowest level in years, but it is difficult to make any direct comparison with previous years because of the changes in keywords. Possible reasons for the reduction include the introduction of the revised *Credit Management Code*, and a number of providers introducing spending alerts for customers.

Year	Number
2004	5,528
2005	5,787
2006	5,221
2007	4,523

## Collections Agents

The TIO recorded 56 complaints about collections agents using harassing or coercive conduct to collect payments and 608 complaints about agents attempting to collect payments when the service provider has been notified that the debt is in dispute.

## Credit Defaults

The listing of a default with a credit reference agency when the debt was in dispute led to 617 complaints. Failure to update the credit default listing when a debt was paid or partially paid led to 124 complaints.

## Payment Arrangements

In 2005/06, 755 complaints were recorded about payment arrangements. In 2006/07, payment arrangement complaints were divided into the following specific categories:

- not recorded – that is, the complainant stated they had negotiated a payment arrangement with their provider but the provider has no record of it (85 complaints)
- refusal to negotiate – where a provider refused to negotiate a payment arrangement when its customer could not meet their financial obligations (501 complaints)
- refusal to renegotiate – where a provider refused to renegotiate a payment arrangement when its customer's financial circumstances changed (291 complaints).

## Suspension/Disconnection of Services

Suspension or disconnection of landline services where the complainant believed there was no notification that this was to occur led to 975 complaints. Suspension or disconnection of landline services when the provider had been made aware that the debt was in dispute led to 467 complaints. Direct comparison of these types of complaints with previous years is not possible due to the change in keywords.

## Mobile (Credit Management)

Mobile credit management complaints increased slightly, from 5,434 to 5,642, but fell as a proportion of all complaints to the TIO – from 4.3 per cent to 3.6 per cent.

## Payment Arrangements

Complaints about payment arrangements increased substantially, from 686 in 2005/06 to 968 in 2006/07. Of these, 77 related to complaints where a payment arrangement was not recorded in the supplier's systems, 667 were about a supplier's alleged refusal to negotiate a payment arrangement, and 224 were about a supplier's refusal to renegotiate a payment arrangement when the customer's circumstances changed.

## Collections Agents

Collections agents attempting to collect debts when the debt was in dispute resulted in 861 complaints. The conduct of collections agents led to 42 complaints.

## Credit Defaults

Complaints about default listings with credit reference agencies were higher for mobile phones than for landline and internet services. There were 822 complaints about a person being listed with a credit default agency when the debt was in dispute. Failure to update the listing when a payment was made resulted in 144 complaints and 567 complaints were received where the complainant stated they were not given notification that a debt was to be listed with a credit reference agency.

## Suspension/Disconnection

Suspension or disconnection of a mobile service when the supplier had been notified of a disputed debt led to 465 complaints. Suspension or disconnection of a mobile service without adequate notification resulted in 907 complaints.

# TIO scheme *continued*

## Customer Service

Service type	2006/07	2005/06	% Change
Internet:	10,965	7,059	+55.3%
Landline:	7,950	13,106	-39.3%
Mobile:	8,133	13,740	-40.8%
Total:	27,048	33,905	-20.2%
% of all complaints:	17.2%	26.6%	

This year a new category of Complaint Handling was introduced. Many complaints which were logged under Customer Service are now logged under Complaint Handling, resulting in a reduction in the number of customer service complaints. Nevertheless, complaints about customer service issues remained high at 27,048, or 17.2 per cent of all complaints. Because of changes to the complaint keywords it is not possible to compare all categories of customer service complaints with previous years.

A new sub-category known as “Unable to Contact” has been introduced to capture complaints where the customer has claimed to be unable to contact their supplier because the supplier’s phone line was constantly engaged or disconnected, or the supplier failed to respond to or acknowledge e-mails.

## Internet (Customer Service)

### Internet customer service

Discourtesy	320
Failure to action request	3,021
Incorrect/inadequate advice	3,229
Lengthy wait time	1,372
Refusal to deal with advocate	68
Unable to contact	2,955
Total	10,965

Internet customer service complaints rose by just over half from 7,059 to 10,965, contrasting with falls in landline and mobile services. Internet suppliers failing to provide a reasonable level of customer service was the third-highest cause of complaint after mobile Billing and Payments and landline Billing and Payments. Of the 10,965 customer service complaints, 4,696 (42.8 per cent) were about one company.

### Discourtesy

A total of 320 complaints were recorded about rude or discourteous service, up from 138 in 2005/06. Customer service complaints were much higher overall for internet services than for landline services, but discourtesy complaints were lower for internet than for landline services. This may be partially attributable to the fact that high numbers of internet customers (“Unable to Contact” accounted for 26.9 per cent of all internet customer service complaints) are not even able to contact their supplier and are therefore not receiving any form of customer service – discourteous or polite. Many smaller ISPs require customers to complain solely via e-mail, which may not always be possible or desirable.

### Failure to Action Request

The TIO recorded 3,021 complaints where the customer said that a supplier had not followed up a request. Such complaints may occur as a consequence of a customer calling about another matter – say, a problem with a fault or a transfer. The complaints included instances where the customer said the supplier failed to update address details or to update the customer’s preferred method of receiving a bill. Complaints where customers were attempting to arrange for an authorised representative to be placed on their account also featured significantly. In 2005/06, the TIO recorded 1,628 complaints about the provider failing to action a customer’s request.

### **Incorrect/Inadequate Advice**

As with Failure to Action Request complaints, on most occasions TIO staff record complaints about incorrect or inadequate advice as a secondary issue to, say, a problem with a bill, a fault or a transfer. There were 3,229 complaints in this category, up from 1,697 last year. Many of these complaints were about customers querying a bill and not receiving adequate information about how the charges were incurred or what steps could be taken to limit the charges on the account. For example, if a customer queries high usage charges on an internet bill, the TIO finds that customer service staff often reply with statements such as: "The bill is correct and you need to pay it", instead of discussing different types of usage, such as browsing, file sharing, uploading and downloading, and the effects these can have on a bill.

### **Unable to Contact**

Complaints about customers being unable to contact their supplier have become a major issue over the last few years, necessitating the introduction of a new complaint category in 2006/07. During the year a total of 2,955 complaints were received about this issue with relation to internet services. Of these complaints, a significant proportion was from the customers of one service provider.

### **Lengthy Wait Time**

In addition to customers being unable to contact a supplier, many customers complain to the TIO when they have to wait on the phone for lengthy periods before being able to speak to someone. Internet customers reported 1,372 complaints about lengthy wait times – more than double last year's total of 635 complaints. As with complaints about customers being unable to contact their supplier, complaints of this nature may be indicative of suppliers not increasing staffing levels in line with increases in their customer numbers.

## **Landline (Customer Service)**

### **Landline Customer Service**

Discourtesy	438
Failure to action request	2,670
Incorrect/inadequate advice	3,440
Lengthy wait time	618
Refusal to deal with advocate	93
Unable to contact	691
Total	7,950

Complaints about poor customer service for landline services decreased significantly from 13,106 in 2006 to 7,950 in 2006/07. A major cause of the decrease is that, in previous years, Complaint Handling issues were recorded as Customer Service complaints. These complaints now have a separate category, "Complaint Handling". This year the combined total for the landline Complaint Handling and Customer Service categories was 16,489 complaints.

### **Discourtesy**

Customers alleging that representatives of their supplier were discourteous or rude totalled 438, compared with 448 last year.

### **Failure to Action Request**

Complaints where the supplier failed to action a customer's request fell from 3,126 in 2005/06 to 2,670 in 2006/07. Where possible, complaints about a failure to action a request are recorded under more specific complaint categories and therefore the decrease in complaints of this nature may be partially attributed to the recent improvements to complaint keywords. Changing the account lessee on the service is one area where the TIO finds that suppliers are failing to action customer requests. The TIO also hears a number of complaints every year where relatives of a deceased person complain that the telecommunications company continues to send bills in the deceased person's name, despite the relatives sending in copies of death certificates, sometimes on multiple occasions.

### **Incorrect/Inadequate Advice**

The TIO recorded 3,440 complaints about incorrect or inadequate advice being provided for landline services. This was a substantial increase on the 2,437 complaints for 2005/06. As with internet, a large number of these complaints arise when the customer has contacted their provider about charges on a bill and is not given sufficient information about the relevant pricing associated with their plan. Customers stating that their supplier had not told them when their fault would be fixed are also examples of complaints recorded in this category.

### **Lengthy Wait Time**

There were 618 complaints where the customer said they had to wait for long periods to contact a supplier. This is half the 2005/06 total of 1,215. The drop is attributable to the fact that in previous years, this sub-category also included Unable to Contact complaints.

### **Unable to Contact**

Customers saying that they were unable to contact their landline service provider led to 691 complaints. Of those 691 complaints, over a third (236) were about one particular service provider.

# TIO scheme *continued*

## CASE STUDY

### Customer service

#### The complaint

A man told the TIO that, for about five months, the e-mails his friends had sent him were on occasion being returned as “undeliverable”.

He said he had repeatedly tried to discuss this with his service provider, but due to his hearing impairment he believed the ISP was routinely terminating his calls. Due to the fault and customer service issues, he wanted to be reimbursed for half the amount he had paid during the five months.

#### TIO response

The TIO requested that the ISP contact the customer in a manner appropriate to his needs as one of the main obstacles to resolution of the complaint appeared to be the communication difficulties. The complainant said he had no problems communicating via a standard landline. But the delays and echoes he experienced while trying to speak with his ISP, which used a VoIP service for its customer service centre, compromised his understanding. At the same time, the complainant also told the TIO that his ISP was cancelling his service because he had contacted the TIO.

The ISP said that it had communicated successfully with the customer on several occasions. It would have been willing to contact him via a landline, but its infrastructure did not allow this. It suggested a more suitable method of communication would be via the National Relay Service, which specifically caters for people with hearing difficulties, or e-mail, which it had attempted with some success.

It said that the customer had not consistently received the technical support he required because he had repeatedly refused to provide his password. The customer had refused to participate in trouble-shooting tests. His service was not being cancelled because he had contacted the TIO, but because he had been abusive towards the ISP's staff. As the customer's contract had expired, the company said it was not obliged to continue to provide the service.

The customer confirmed that he had refused to provide his password, believing this to be a breach of his privacy. He also confirmed that he had chosen not to help the ISP trouble-shoot. He accepted that the ISP was not obliged to continue to provide him with a service, but still believed that, due to the fault issue, he deserved a refund and almost \$500 in costs he had incurred.

#### The outcome

There were four main issues the TIO was required to consider:

- By not taking his hearing impediment into account, had the ISP denied, or made it difficult, for the customer to receive the technical help he needed?
- Had the customer actively participated in trying to resolve the problems he claimed to have experienced?
- Was the ISP within its rights to discontinue providing the service?
- Was a refund a “fair and reasonable” outcome?

The TIO found:

- The ISP was not obliged to call the customer on a landline. It had offered to communicate by e-mail and the National Relay Service. If the customer had communicated via either method he would not have been disadvantaged.
- The ISP's customer care notes and the TIO's dialogue with the customer confirmed that he had not attempted to resolve the complaint in a meaningful manner. The notes demonstrated that he had a history of abusing and threatening staff, behaviour the TIO considers unacceptable.
- Generally speaking, every business is entitled to choose its customers and it is unrealistic to expect that every company can provide a service to each individual who requires it. In this instance the customer was out of contract, so the ISP and the complainant could cancel at any time, subject to the notice period required.
- The customer care notes also showed that, while the complainant said he had been experiencing faults for five months he had not told his ISP until after he contacted the TIO. The usage data provided by the member proved that, while a fault may have been experienced, the service had been used extensively throughout the period in question.

No refund was provided but, as a courtesy, the ISP offered to extend the service for an additional month to allow the complainant to find another plan.



### Mobile (Customer Service)

Mobile customer service complaints fell from 13,740 in 2005/06 to 8,133 in 2006/07. As with landline and internet complaints, many complaints previously recorded under customer service issues are now being registered in the "Complaint Handling" category.

#### Discourtesy

Complaints about rude or discourteous customer service representatives increased this year, from 303 to 457.

#### Lengthy Wait Time

As with landline services, complaints about lengthy wait times dropped this year, from 439 in 2005/06 to 304 in 2006/07. This is due to the introduction of the "Unable to Contact" category.

#### Unable to Contact

Customers reporting that they were unable to contact their mobile provider resulted in 357 complaints. There is no comparison with previous years for this type of complaint.

#### Failure to Action Request

The TIO received 2,899 complaints where the supplier failed to action a request. This was 17.7 per cent fewer than in 2005/06 (3,521 complaints).

#### Incorrect/Inadequate Advice

Complaints about customer service staff providing incorrect or inadequate advice for mobile services increased from 3,017 in 2005/06 to 4,038 in 2006/07. As noted above, increases in this category were also seen for internet and landline services.

### Directories

923 complaints were received about directories – 860 of these related to landline services and 63 about mobile services. The 923 complaints equated to 0.6 per cent of all complaints.

The TIO's jurisdiction excludes complaints about business directories. However, we have an informal agreement to refer *Yellow Pages* complaints to Sensis, the directory's publisher. If an agreement cannot then be reached, the TIO does not have the power to intervene. 148 complaints relating to *Yellow Pages* were registered for the year.

The TIO can investigate complaints about printed and online *White Pages*. Most complaints in 2006/07 (408) related to errors or omissions in a *White Pages* listing. Where an error or omission causes financial loss to a business, the TIO may investigate compensation claims after these have initially been raised with the complainant's service provider. 327 complaints related to disputed charges for *White Pages* listings. The remainder of complaints were about incorrect numbers being given on directory assistance and the accessibility of directory assistance.

# TIO scheme *continued*

## Disability

The TIO records complaints from people with disabilities under two categories: Disability; and Impaired Decision Making under the Contracts complaint category.

The Disability category includes sub-categories which deal with equipment-related complaints and also matters concerning priority assistance (see Priority Assistance, page 52).

### Disability Equipment

The TIO can investigate complaints about the supply of disability equipment by the universal service provider, currently Telstra. As the universal service provider, Telstra must provide everyone in Australia with access to a basic fixed line telephone service – the standard telephone service (STS)

The STS is defined *Telecommunications (Consumer Protection and Service Standards) Act 1999 – s6* as a carriage service for the purposes of voice telephony, or if that is not practical for a person with a disability, another form of communication that is equivalent to voice telephony. Telstra provides its disability customers the option of leasing equipment appropriate to their needs at a cost equitable to standard equipment and services.

As the universal service provider, only Telstra is required to offer the full range of disability equipment. However, Telstra and Optus have disability equipment programs that provide both standard customer equipment with particular features and disability equipment to customers. In addition, some other phone companies who are resellers of Telstra's services have an agreement with Telstra to provide their customers with disability equipment.

The TIO can investigate complaints about the supply of disability equipment, particularly where Telstra is allegedly not complying with its obligations as the universal service provider – that is, if it is not providing the customer with reasonable access to the standard telephone service, including a rental handset. If a complainant's rental handset appears to be faulty, the TIO will investigate. In addition, we will also consider complaints where the equipment provided may not suit the person's disability, or where additional equipment is required to use a service but has not been supplied by a provider.

While providers other than Telstra are not bound to supply disability equipment under the universal service obligation, the TIO expects that all service providers who bill a customer for local access should ensure that their customer's disability requirements are met – within reason – in relation to the provision of telecommunications services in compliance with the *Disability Discrimination Act 1992* (Cwth).

This year, the TIO received 15 complaints about equipment under the landline category (compared with 17 under the same category last year). Two complaints were received under the internet category (none last year) and six under the mobile category (one last year).

### Impaired Decision Making (Contracts)

Complaints recorded under this category concern situations where the decision-making ability of a person entering a contract is claimed to have been impaired. This may be because of a range of conditions, including intellectual disability, mental illness, or inexperience.

Where the complaint involves a person with an intellectual disability, the TIO will investigate the complaint in accordance with its position statement *Persons with intellectual disabilities entering contracts*. This statement says that the TIO receives complaints from people seeking to be released from contracts on the grounds that they were not aware of the implications of their actions in signing the contract because of an intellectual disability.

The TIO acknowledges that it may not be possible (or desirable) for a service provider to identify a potential capacity issue at the point of sale. However, when the TIO and the service provider become aware of such an issue, then we may ask for evidence in the form of a statement from a medical practitioner to support the complainant's position.

The TIO does not report the reasons for a person's impaired capacity in this complaint category, so the statistics relate only to impaired capacity. Complaints received under the impaired decision-making category were broadly in line with last year. Under the landline impaired decision-making category, 63 complaints were received (the same number as last year); under the mobile category, 279 were received (261 last year); and under the internet category, 34 (26 last year).



## CASE STUDY

# Internet data speed

### The complaint

The complainant knew that his contract stipulated that if a user exceeded certain specified data download limits, then the service would be restricted so that slower speeds would apply.

However, he believed that his service had been prematurely “shaped” (or slowed down) on a number of occasions before he had exhausted his entitlement in terms of usage.

### TIO response

The TIO decided to investigate this complaint as the customer said he had made enquiries regarding the shaping of his service to his internet service provider but claimed to have received no response. The TIO then requested the relevant documents from the ISP, which consisted of general information – such as the terms of the contract – and information particular to the service in question.

The TIO first assessed the ISP’s “Acceptable Use Policy” (AUP), which governs the conduct of its customers; most ISPs have an AUP, even when services are advertised as “unlimited”. An AUP is a means of imposing limits on internet usage in order to restrict “excessive use” by some customers, which can cause congestion and thereby reduce the quality of service to all users.

The ISP explained that, as a part of its AUP, it did not in fact employ “shaping” at all. Rather, all customers who exceeded the AUP were placed into a separate pool of bandwidth, so that their high usage did not affect the speeds of customers who used their service in a more restricted manner.

The TIO then considered the complainant’s actual usage, with a view to assessing whether or not the AUP had in fact been exceeded. It found that the user had downloaded excessively on a number of occasions, contradicting the suggestion that the speeds he had received were in fact slow. Additionally, the ISP advised the TIO that its customers were provided with a usage meter that was updated twice daily, so that they could monitor their usage and be aware when the limits were about to be reached or exceeded.

### The outcome

The TIO advised the complainant that the usage reports indicated that he had exceeded his download limit on a number of occasions. As a result of exceeding that usage, he had been placed in a pool of bandwidth with other users who had also exceeded their allowance and this had caused him to experience slow speeds. We further advised the customer that the ISP had been acting according to its Acceptable Use Policy and that in the TIO’s opinion further investigation was not warranted.

# TIO scheme *continued*

## CASE STUDY

### Land access

#### The complaint

A landowner complained to the TIO that a contractor had installed a lead-in cable (the cable that connects a house to the street telephone cabling) across his land without giving him notice or asking his permission.

He believed the cable was to provide a landline service to his neighbour. He became aware of the installation on inspecting his property and finding a trench that had recently been filled. The cable was only 300mm below the soil surface, which prevented him from using or cultivating the land. The landowner had already approached the service provider concerned, who had told him that the cable had been installed as a matter of right under the telecommunications legislation that applied at the time of installation.

#### TIO response

The TIO decided to investigate this issue as the landowner had already given the service provider a chance to respond to his complaint and we believed that it had not been adequately addressed. The main focus of the investigation was to ascertain whether the complainant had been formally notified that the provider was considering installing a cable on his land. While it is true that carriers have very broad powers to enter privately owned land to install and maintain some types of facilities, before exercising these powers they are required by law to provide reasonable written notice of this intent. This gives the landowner an opportunity to object to the facility on certain grounds only, one of these grounds being the location of the installation.

The TIO therefore asked the service provider for a copy of the notice served on the landowner (pursuant to the relevant clause of the *Telecommunications Act 1997*), and details as to when and how the cable had been installed.

The provider confirmed that the complainant's neighbour had requested a landline service and claimed that he had indicated to the contractor that he had obtained the landowner's consent to make use of an alleged easement on his property. It stated the service had been provisioned as a matter of urgency, as the neighbour suffered from asthma. But it could not provide a copy of the notice as required, nor any documentation as to the existence or relevance of an easement. Finally, it could not provide any proof that the landowner had in fact agreed to the installation.

#### The outcome

As the service provider could not provide any documentation which proved that the landowner had been given notice of the installation – or that his consent had been obtained – it agreed to reposition the facility. Once all of the relevant parties had been contacted, and the necessary permissions received, the lead-in cables were relocated to the satisfaction of those concerned.



## Faults

Service type	2006/07	2005/06	% increase
Internet	7,271	3,316	119.3%
Landline	5,130	4,158	23.4%
Mobile	8,171	7,416	10.2%
Total	20,572	14,890	38.2%
% of all complaints	13.1%	11.70%	

Fault complaints rose from 14,890 to 20,572 this year. They now account for 13.1 per cent of all complaints to the TIO scheme, compared with 11.7 per cent in 2005/06. Most complaints relate to delays in rectifying faults. However, the TIO also captures complaints where technicians do not attend appointments to rectify a service and, for the first time this year, complaints where services have been disconnected in error.

### Fully Unworkable Service

A new sub-category, "Fully Unworkable", was introduced this year. It is designed to capture faults where there is no access to the network, as opposed to faults where some features of the service (such as message bank and usage meters) may be faulty but customers are still able to receive a service. Network outage complaints are captured in a separate category from fully unworkable services. Often it is hard for the TIO to determine from first contact with a complainant whether a fault is due to an equipment failure or whether it is a network or other type of problem.

## Internet (Faults)

Complaints about faults on internet services more than doubled during the year, from 3,316 to 7,271. For the first time, internet fault complaints outstripped those for landline and were just behind those for mobile services.

Many complaints about internet faults were recorded with multiple issues, which may account for a portion of the increase in complaint numbers. However, during 2006/07 the TIO received a very high number of fault complaints about one internet service provider. In the internet faults category the company recorded 1,990 complaints, or 27.4 per cent of all internet faults complaints.

### Dropouts

These complaints occur where an internet connection is established but then "drops out". This year the TIO recorded 1,525 complaints about dropouts, compared with 754 last year.

### Slow Data Speed

Problems with slow data speed resulted in 1,095 complaints, compared with 609 in 2005/06.

### Equipment Faults

Faults with equipment generally relate to faulty or incompatible modems supplied by internet service providers. The TIO recorded 544 complaints in this category. As this is a new category of complaint, no comparison is available with previous years.

# TIO scheme *continued*

## Landline (Faults)

There were 5,130 complaints about faulty landline services, up from 4,158 in 2005/06. The percentage of landline faults as a total of all complaints remained static from 2005/06 to 2006/07 at 3.3 per cent.

The TIO divides landline fault complaints into Customer Service Guarantee (CSG) services and non-CSG services. The CSG is a standard administered by ACMA that provides for financial compensation to be paid to customers affected by delays in telephone service connections, delays in fault repairs and missed appointments. The CSG is payable on the standard fixed line telephone service where the customer does not have more than five telephone lines.

Most complaints (93.3 per cent) about faulty landline services relate to CSG services. One fault complaint may result in a number of complaints being listed – for example, a faulty service may result in a complaint listed under the categories of Fully Unworkable, Missed Appointment, and Compensation.

### Fully Unworkable Services/Partly Unworkable Services

A total of 2,679 complaints were recorded where there was a delay in rectifying a service that was not usable at all. This is the first time the TIO has recorded complaints under this category. There were 795 complaints about services that were partly unworkable – that is, where calls drop out or there may be a high level of noise or interference on the line.

### Recurring Intermittent Faults

Delays in rectifying recurring and intermittent faults improved slightly this year, with complaints dropping from 911 in 2005/06 to 749.

### Missed Appointments

Complaints about missed appointments for faults remained reasonably static, with 129 complaints being recorded versus 153 for 2005/06.

## Mobile (Faults)

Mobile fault complaints increased from 7,416 in 2005/06 to 8,171 in 2006/07. New complaint categories introduced in 2006/07 allow the TIO to be more specific about the types of mobile fault complaints it receives and investigates. Direct comparisons with previous years is difficult because of the change of categories.

It is pleasing to note that the number of complaints received about Hutchison 3G Australia in this category has dropped significantly. In last year's annual report, the TIO said that Hutchison accounted for 47 per cent of all mobile fault complaints and for 60 per cent in 2004/05. This year, Hutchison accounted for 34.4 per cent (2,807) complaints in this category.

### Fully Unworkable

In contrast to internet and landline faults, complaints where a mobile service was fully unworkable represented a minor proportion of faults – 600 of the 8,171 complaints. This is because, in general, mobile services may suffer from poor coverage in certain locations or occasional network outages and equipment faults that may not make the service wholly unworkable.

## Coverage

Coverage complaints increased slightly to 1,119 this year, compared with 942 complaints last year.

## Network Outage

In previous years, the TIO captured complaints about the network. However, this type of complaint did not refer specifically to network outages. The TIO recorded 90 complaints about network outages in 2006/07.

## Equipment Fault

Encouragingly, complaints about equipment faults where the equipment was supplied as part of a bundled service (previously known as handset faults) decreased marginally from 5,897 in 2005/06 to 5,613 in 2006/07.

## Dropouts

Mobile dropouts – where a call was established but dropped out due to network and coverage issues – led to 454 complaints. This specific type of complaint was not captured previously.

## Land Access

Service type	2006/07	2005/06	% change
Internet	37	16	+131.3%
Landline	431	482	-10.6%
Mobile	12	9	+33.3%
Total	480	507	-5.3%
% of all complaints	0.30%	0.40%	

Land access accounted for a minor proportion of all complaints, numbering 480 and consisting of just 0.3 per cent of all complaints for 2006/07 – down marginally from 507 (0.4 per cent) in 2005/06.

Carriers and carriage service providers are required to be members of, and comply with, the TIO scheme. The main difference between these two types of business structures is that carriers own or control telecommunications networks or infrastructure, whereas carriage service providers use a carrier's network to provide their services.

Carriers have broad powers under the *Telecommunications Act 1997* (Cwlth) to access land for inspection, installation of facilities and maintenance of facilities. Of particular importance is their right to install "low-impact" facilities without the consent of the landowner and with immunity from a wide range of state laws.

The Act places obligations on carriers exercising their land access powers and the *Telecommunications Code of Practice 1997* provides owners or occupiers of land affected by a carrier's activity with a limited right to object. After receipt of an objection, carriers are required to undertake a mandatory consultation process and attempt to resolve the objection by agreement with the landowner or occupier. The code also provides that unresolved objections may be referred to the TIO and that carriers are required to comply with a direction given by the TIO.



#### CASE STUDY

## Information disclosure

### The complaint

The TIO received a phone call and follow-up fax from a consumer who had requested the installation of broadband. He said that during the installation process the technician told his neighbour that he was installing cable internet at the consumer's apartment.

The consumer asked the technician not to speak to his neighbour and when he continued to do so, he complained to the service provider about the technician's conduct. The technician then left the premises without installing the connection. The consumer said that the technician had divulged his personal information but did not say what, apart from telling the neighbour that he was installing broadband. The consumer also said that the technician had made racist remarks to him – although he did not say what the technician had said. He sought \$2,700 compensation to alleviate the pain and suffering he said he had experienced, in addition to the time he had spent lodging the complaint and lost earnings for the day he was at home for the installation.

The complainant's first fax to the TIO used abusive and racist language about the technician. The TIO advised him to approach the matter in a courteous manner and asked him to rewrite the letter. The complainant provided a second fax which was acceptable to the TIO.

### TIO response

The provider said it rejected the consumer's request for compensation. It said the technician did in fact speak to the neighbour but did not disclose any personal information. It said that, to install cables in apartment blocks, it must seek permission from the body corporate to gain entry to common areas. It also said that, where access to shared roof space above units was required, its technicians should notify affected residents, otherwise they may believe that someone is attempting to break in to their apartment. The provider said the technician was concerned for his safety as the complainant was abusive towards him and that he was told by his supervisor to leave the premises immediately.

### The outcome

The TIO accepted the provider's assurance that the technician had done the right thing by advising the neighbour that he was installing broadband. As the consumer did not provide any examples of how he believed he was racially vilified, and as it was clear that the technician did not complete the installation as he was concerned for his safety, the TIO declined to investigate further. Where a complainant is not satisfied with the TIO's investigation of a privacy matter, the complainant may approach the Privacy Commissioner.

# TIO scheme *continued*

The TIO can investigate land access objections received only from either the landowner or the occupier. Complaints about the installation of low-impact facilities on a neighbour's land or council property cannot be dealt with by the TIO. In general, complex complaints regarding objections to low-impact facilities are investigated at Level 4. During 2006/07, 17 complaints regarding land access issues were investigated at Level 4 status.

## Damage by Complainant

This category covers complaints where the customer (or someone who is not the customer of a supplier) has damaged the supplier's property. Typically, in these types of complaints, the TIO is contacted by a person who allegedly has damaged a supplier's cables and is being held responsible for paying for the damage. In some cases, the complainant has not obtained information about the whereabouts of cables before undertaking work in that location. In other complaints, the complainant claims that the cables were not laid in the location stated on relevant maps or the cable was laid very close to the surface. For landline services, the total number of complaints received for 2006/07 was 97.

## Damage by Provider

The TIO received 233 complaints about suppliers causing damage to customers' property during the installation of telecommunications equipment.

## Failure to Give Notice

Failure of suppliers to give notice that they would enter a landowner's or occupier's property resulted in 39 complaints. In one complaint investigated by the TIO, the complainant noticed that a cable had been dug through his property when he had received no notification that this was to take place. See case study page 48.

## Subscriber Connection

Complaints about the way a connection is installed – for example, where a cable may be strung too low across a customer's driveway – led to 39 complaints.

## Objection

As described above, the TIO investigates complaints where an owner or occupier objects to the installation of cabling or other low-impact facilities on their property. A total of 64 complaints of this nature were received, with an additional eight being considered premature and referred back to the supplier for discussion and resolution.

## Payphones

The TIO received 34 complaints about payphones. The TIO can take complaints only about faults and charging; it cannot investigate complaints about the location or removal of payphones. Where customers have complained to Telstra about the location of a payphone and remain dissatisfied, they may direct their complaint to the Australian Communications and Media Authority ([www.acma.gov.au](http://www.acma.gov.au)).

## Phonecards

Complaints about phonecards rose from 371 last year to 559 this year. The addition of substantially more keywords to the complaint category means that the TIO can capture these complaints in more detail.

The main sub-category of complaint – 188 complaints – was about disputed charges. Most commonly customers said they did not receive the amount of talk time they were promised at the point of sale. More concerning were complaints where a person was advised to call the central access number only to find that they had received a substantial bill as they had either:

- dialled an STD number or
- were charged substantial call costs as they had used a mobile phone.

Another significant area of complaint was the customer's failure to be able to contact the phonecard company. This resulted in 75 complaints. Customers were also concerned about faulty, invalid or expired cards, which resulted in 56 complaints to the TIO.

Phonecard companies are usually small operations that can be hard for customers and the TIO to contact due to the limited information that is supplied with the cards. Phonecards can now be purchased over the internet as well as at newsagencies and other retailers.

## Priority Assistance

Priority Assistance is a service designed to help people with diagnosed life-threatening medical conditions who depend on a reliable, home (landline) telephone service to call for assistance when needed. Priority Assistance customers are entitled to faster connection and fault repair of their telephone service and a greater level of reliability than other customers. In urban and rural areas Priority Assistance customers are entitled to have a service connected or a fault repaired within 24 hours. In remote areas, the timeframe is 48 hours. Service providers must test a Priority Assistance customer's phone service if they experience two or more faults in a three-month period.

Telstra is the only service provider required to provide Priority Assistance services to its customers as a condition of its licence, but some other service providers also offer Priority Assistance services.

Priority Assistance is a sub-category of the Disability complaint category.



## CASE STUDY

# Provisioning delay

### The complaint

The complainant contacted the TIO about a delay in the provisioning of a telephone service at his property in rural Tasmania.

He had advised his phone company of the date he was moving into the new premises and had been given a date for the installation. Before requesting the new service he had called the phone company to ask for maps of its infrastructure so he could dig a trench for the phone connection through his property to the telephone network.

He said that the infrastructure was not where the phone company said it would be and advised the company of this. On the date that the connection was to go ahead the phone company discovered that there was no available infrastructure and the connection could not take place. About a week later the complainant was provided with an interim mobile phone service (interim service A) which he said was unusable due to frequent call drop-outs.

Three weeks later the interim service was replaced with a CDMA mobile phone (interim service B) which was usable despite some drop-outs. The service provider calculated that he was entitled to a Customer Service Guarantee (CSG) payment of \$58.08 for the delay between the agreed connection date and the provision of the first interim service. The complainant claimed that the \$58.08 did not cover the cost of the mobile phone calls he had to make due to the interim services not working properly. The complainant's main complaint at the time of contacting the TIO was that he wanted the phone service connected as soon as possible. By the time he contacted the TIO he had been given three connection dates which had not been met.

### TIO response

The TIO raised a formal complaint requesting that the phone company connect the service as soon as possible and provide a connection date. The TIO also raised the issue of whether the interim services were an adequate substitute for the phone connection. This could have an impact on the CSG entitlement as the TIO considers that CSG applies where an interim service is of poor quality.

The phone company provided the TIO with an expected completion date (which subsequently was not met) and said that the interim service B was functioning and that the complainant's total CSG entitlement was \$58.08.

The TIO asked the phone company for fault reports for the interim services and copies of itemised phone bills indicating their usage. The TIO formed the opinion that the low number and short duration of calls made from interim service A indicated that it was not functional. The TIO believed that the complainant was able to make calls from the date interim service B was supplied.

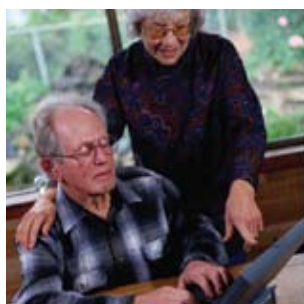
When the TIO examined the fault history for the service, it became evident that there was only one fault report for interim service A, made just before the service was replaced with interim service B. The service provider said that, as the complainant had not reported faults on interim service A, it had not been given the chance to repair or replace it. The complainant was therefore not eligible for the CSG for this period. The service provider also produced records of the complainant reporting that interim service A was functional. The TIO asked the complainant if he had any further proof such as notes of discussions or mobile phone records (he had a mobile phone with a different company) to show that he had reported faults on the first interim service. The complainant said he did not.

### The outcome

The complainant's service was connected six months after the agreed connection date. The complainant told the phone company a few days later that the service was connected. It responded saying that it wasn't due to be connected until the following week. The complainant mailed the interim service (mobile phone) to phone company and came home to find that his phone was not functioning. It was rectified six days later. The complainant received an additional CSG payment of \$43.56 for the delay in fixing the service fault.

The complainant advised the TIO that, while he felt he had been treated badly by the service provider, he did not want to pursue the matter further.

# TIO scheme *continued*



The TIO takes Priority Assistance complaints under four sub-categories:

- connection, which relates to complaints where the customer said that their provider had not fulfilled the timeframes required under Priority Assistance (11 complaints recorded)
- fault rectification, which relates to circumstances where the customer said that their provider had not fulfilled its timeframes for fault rectification (25 complaints recorded)
- notification, which relates to circumstances where the customer said that their provider had not advised them of the existence of the Priority Assistance program and how they may apply for it (eight complaints recorded)
- rejection of application, which relates to complaints where a customer has had their application for Priority Assistance rejected (four complaints recorded). Customers must provide medical evidence in support of their claim for Priority Assistance. The TIO cannot review medical evidence and can only examine whether a provider followed its procedure in assessing a person for Priority Assistance.

## Privacy

Service type	2006/07	2005/06	% change
Internet	182	106	+71.70%
Landline	1,432	2,698	-46.92%
Mobile	729	575	+26.78%
Total	2,343	3,379	-30.66%
% of all complaints	1.5%	2.7%	

The TIO records complaints about privacy under several sub-categories. They include where:

- a person has been telemarketed by a TIO member
- a provider has denied a person access to information held about them
- information held by a provider about a person is not accurate
- a person is concerned about the way their personal information has been collected
- a person says that their silent number has been disclosed by their provider.

## Landline (Privacy)

The event that had the most significant impact on privacy complaints was the the Federal Government's introduction of the *Do Not Call Register* in May 2007. People can list their mobile and landlines on the register to opt out of receiving certain telemarketing calls. Substantial financial penalties can be levied against companies who continue to call people who are on the *Do Not Call Register*. The register does not apply to small businesses.

Despite the register being operational for only one month of the 2007 financial year, telemarketing complaints to the TIO have fallen substantially. This may have been because people opted to wait until the register was operational instead of complaining to the TIO and that telemarketing organisations had curtailed their activities in anticipation of the introduction of the register.

In 2005/06, 1,738 telemarketing complaints were received from users of landline services. This year, that had dropped by 60.9 per cent to 680.

The sub-category that attracted the most complaints after telemarketing was disclosure of silent numbers by a provider, where 182 complaints were logged, compared with 201 in 2005/06. Despite the relatively small number of complaints received, it is concerning that people may be left in a vulnerable position because a provider has disclosed their silent number.

The TIO has a position statement, *Disclosure of silent numbers*, detailing how it will deal with complaints of this nature. In cases where a person alleges they are at risk as a result of the disclosure of their phone number, the TIO may ask for evidence in support of the claim. One avenue of redress is for the TIO to award compensation against the provider.

### Mobile (Privacy)

Privacy complaints were similar to those received from landline service users, but on a smaller scale.

Telemarketing complaints from users of mobile services rose marginally, from 120 to 133. More than likely this reflects the overall increase in mobile phone complaints. Fewer silent line disclosure complaints are received as customers normally have to opt in to have their mobile listed in a directory, whereas landline users have to opt out.

### Internet (Privacy)

182 complaints were received about internet privacy issues during 2006/07. This number was an increase on the 106 complaints received in the previous year. However, in both years these complaints represented only 0.1 per cent of all complaints received by the TIO.

Complaints about telemarketing and spam (unsolicited marketing e-mail) from ISPs led to 55 complaints to the TIO. There were 14 complaints about inadequate advice provided by ISPs about how to block spam. The remaining 113 complaints were about a customer's personal information being collected, disclosed, or inaccurately recorded or ISPs not allowing the customer access to the personal information it holds on them.

## Provisioning

Service type	2006/07	2005/06	% increase
Internet	4,344	2,259	92.3%
Landline	3,196	2,639	21.1%
Mobile	365	169	116.0%
Total	7,905	5,067	56.0%
% of all complaints	5.0%	4.0%	

Provisioning complaints rose to 7,905 (5.0 per cent of all complaints) from 5,067 (4.0 per cent).

Changes to complaint categories have made it difficult to compare some provisioning types of complaints with previous years, but they have also enabled the TIO to be more specific this year about the provisioning complaints – especially in relation to internet services. Most provisioning complaints relate to delays. Some complaints are for missed appointments and for advice about the coverage or availability at the customer's location.

### Internet (Provisioning)

Provisioning of internet services caused an increasing number of complaints throughout 2006/07 – rising from 2,259 to 4,344. The internet provisioning category captures complaints about missed appointments (33 complaints), advice about the coverage or availability of the service (1,042 complaints) and various types of provisioning delays (3,269 complaints).

### Provisioning Delay

Delays in the provisioning of internet services resulted in 3,269 complaints. Because broadband services such as ADSL and ADSL2 require changes to the exchange before a service can be enabled, customers experienced delays when the provisioning did not go ahead as expected. The TIO also received complaints from people applying to upgrade their existing ADSL service to an ADSL2 service who encountered difficulties because their ADSL service was disconnected, the port at the exchange was given to another customer, and for various reasons they were then not able to receive the ADSL2 service. In some of these situations the customer was without an ADSL service until another port became available.

### Provisioning Advice: Coverage/Availability

The quality of advice provided to customers about the provisioning of ADSL and ADSL2 services proved to be a problem in 2006/07, resulting in 1,042 complaints. The TIO did not previously capture this type of complaint. The TIO found that many customers who put in a request to receive ADSL and ADSL2 services are given incorrect advice about the availability of the product at their premises. These complaints differ from complaints registered under Contracts/Point-of-Sale Advice, as the customers do not actually go ahead with a contract in these situations.

### Landline (Provisioning)

Provisioning of landline services resulted in 3,196 complaints, compared with 2,639 in 2005/06. In percentage terms, the complaints remained static at 2 per cent of all complaints.

As with fault complaints, the TIO divides provisioning of services into Customer Service Guarantee (CSG) and non-CSG services. The vast majority of complaints for landline faults are about CSG services.

# TIO scheme *continued*

## Connect Outstanding

Connect outstanding provisioning delays occur where a new occupant at a premises cannot be provided with a phone service because the previous occupant has not arranged disconnection of the service, or the original occupant's service provider has failed to act on a disconnection request. Connect outstanding complaints dropped from 222 in 2005/06 to 135 in 2006/07, indicating that the *Connect Outstanding Code* is improving the disconnection and reconnection process.

## Pre-provisioning of New Service

This year, provisioning complaints have been expanded to capture complaints about pre-provisioning issues. Pre-provisioning of a service involves upgrading the "network", or installing it where it is not available, and commonly involves digging trenches and laying underground cabling from the existing network through the customer's land to the first telephone socket in the premises. It is usually required for connections to a newly built residential or business premises. The TIO often hears complaints that customers were not advised to arrange the pre-provisioning of their premises, or were not told how to go about arranging the connection of the service after the pre-provisioning was completed. The TIO received 83 complaints about pre-provisioning issues in 2006/07.

## Delay, In-place CSG service

"In-place" services are those where a phone has previously been connected, there is an existing telephone socket and the infrastructure is either intact or some restoration work may be required to restore the relevant infrastructure between the premises and the exchange. This year the TIO recorded 1,022 complaints about delays in provisioning of in-place services for Customer Service Guarantee services. Changes to complaint keywords have made comparisons with previous years difficult.

## Delay, New-service CSG service

"New-service Customer Service Guarantee service" covers the installation of a new connection at the customer's premises or connection to a service that has previously existed but where a technician is required to visit the premises to install or work on cabling. Complaints about this type of connection totalled 1,380 for 2006/07. Changes to complaint keywords have made comparisons with previous years difficult.

## Mobile (Provisioning)

Mobile provisioning complaints increased from 169 in 2005/06 to 365 in 2006/07. Most were about the delay in provision of a mobile service. However, about a third related to number allocation.

## Number allocation

Complaints about the allocation of phone numbers rose from 38 complaints in 2005/06 to 101 in 2006/07.

Some of these complaints relate to pre-paid mobile phones, where services have been cancelled when the phone has not been used within a specified time period. If no arrangements have been made to reserve the phone number, numbers are placed in quarantine after the service is cancelled and may eventually be reissued to new customers.

## Transfer

Service type	2006/07	2005/06	% change
Internet	741	213	+247.9%
Landline	4,856	(5,082 + 131) (porting)	-6.8%
Mobile	618	647	-4.5%
Total	6,215	6073	+2.3%
% of all complaints	4%	-4.8%	

As the name suggests, Transfer encompasses issues encountered during the transfer of services between providers. This category incorporates the old categories of Churn (or Customer Transfer) and Porting (transfer of mobile phone numbers between networks). Complaints rose slightly from 6,073 to 6,215 but decreased in percentage terms from 4.8 per cent to 4 per cent.

## Internet (Transfer)

Complaints about internet transfers rose substantially, from 213 in 2005/06 to 741 in 2006/07 – an increase of 248 per cent. Transfer problems were not usually an issue for customers of dialup services, but more customers are using broadband services and are experiencing delays with the transfer from one provider to another. Complaints where services are transferred between providers without the customer giving their informed consent are also on the increase for internet services.

The TIO will monitor this area since technological advances are likely to allow customers greater freedom to move between providers. With this freedom comes the opportunity for error.

## Transfer delay

As mentioned above, changes to the technology of internet services have resulted in increasing numbers of transfer delay complaints. With ADSL and broadband services, suppliers are often required to physically undertake work at the exchange or customer's premises and this can lead to the customer experiencing delays. Complaints where the customer is waiting for their supplier to send out a modem before they can access the service are also a common problem. Transfer delays resulted in 323 complaints to the TIO, compared with 63 for 2005/06. The TIO expects complaints of this nature to continue increasing.

## Reversal

Problems with reversing internet service transfers led to 25 complaints about a reversal delay, 24 complaints about the supplier's failure to reverse the service and three complaints where the service was not returned in its original state (for example, it may not have been reinstated on the original plan).

## Unauthorised

Complaints about the unauthorised transferring of services have been separated into more specific keywords in this financial year, making some exact comparisons with previous years difficult. Data for the new keywords are as follows.

- **No informed consent** – complaints where the customer alleged their service was transferred without informed consent resulted in 204 complaints. In complaints of this nature, the TIO commonly hears from complainants that they were contacted by a telemarketer and agreed over the phone to transfer to that internet supplier, subject to the supplier sending more information. They then discovered some time later that their service was transferred to that company.
- **Unauthorised/not authorised customer** – complaints where the person arranging the transfer was not the authorised customer (for example, the supplier arranged the transfer with the spouse or child of the account holder) accounted for 40 complaints.
- **Administrative error** – this category captures complaints where a service may have been transferred in error due to a supplier inputting incorrect details or a customer not providing a supplier with their correct service details. This category has been used in previous years. This year 28 complaints of this nature were received, compared with 25 for last year.
- **Cancelled in cooling-off period** – often telemarketers advise potential customers that they can cancel the service during the cooling-off period if they're not happy with it. The TIO recorded 45 complaints where the service was transferred to the new provider, even though the customer cancelled during the cooling-off period. This complaint category has not been used in previous years.

## Landline (Transfer)

Transfer complaints about landline services dropped slightly from 5,213 in 2005/06 to 4,856 in 2006/07. Some transfer complaint categories are comparable with those in previous years. However, changes to keywords and the introduction of more specific categories have made direct comparisons difficult in some areas.

### Delay

Complaints about the delay in arranging a transfer increased from 764 in 2005/06 to 897 in 2006/07.

## Reversal

Reversal of transfers led to the following complaints:

- delay, 57 (where the transfer back to the original supplier was delayed)
- failure to reverse, 174 (the supplier did not undertake the required actions to reverse the transfer)
- service different, 10 (the service was not reinstated in its original state – for example, with barring of international numbers or CND blocking).

## Sales Tactics

Complaints about sales representatives using harassing or coercive conduct in order to elicit a transfer led to 243 complaints. This is a new category and the TIO will be monitoring it closely.

## Unauthorised

Complaints about the unauthorised transfer of landline services remain high and indicate that providers need to improve their adherence to the relevant industry codes, including the *Commercial Churn Code* and the *Customer Transfer Code*.

Complainants alleging they did not provide informed consent to the transfer resulted in 1,895 complaints.

Complaints where the service was transferred due to an administrative error resulted in 221 complaints (this keyword was used in previous years and we can therefore see that the complaints decreased from 345 last year).

Services transferred even though the customer chose to cancel the transfer within the specified cooling-off period led to 277 complaints.

Complaints where the service was transferred by someone who was not the authorised customer – for example, the spouse or child of the account holder – led to 598 complaints.

## Point-of-Sale Advice

Information supplied at the point of sale when a transfer was arranged is a new category introduced this year. This category is further divided into specific areas, including the following:

- name of supplier – where the identity of the supplier of the services is not made clear to the customer (105 complaints)
- product and terms – where the information supplied about the product and terms of the supply, such as pricing, etc., are not made clear (199 complaints)
- termination fee – where customers claim they were not made aware of the existence or specific amount of a fee for terminating the service (three complaints).

## TIO scheme *continued*



### Mobile (Transfer)

Mobile transfer complaints dropped slightly, from 647 in 2005/06 to 618 in 2006/07. Of these, more than half related to complaints about a delay in transferring services.

#### Transfer Delay

Delay in transferring services was the most common form of transfer complaint for mobile services (348 complaints, compared with 319 in 2005/06). Transfers between providers where the customer is keeping their mobile phone number can take place in as little as two hours. The TIO would expect most transfers to be achieved within 48 hours but has had complaints of some taking up to six weeks. While complainants have use of the mobile phone service during this period, often with these types of complaints the customer has not realised that their phone is still being billed by their original provider, and they have been using their phone believing that they will receive discounted call charges from their new provider. These types of complaints then result in a billing dispute between the new and the original provider.

The Australian Communications and Media Authority publishes on its website, at [www.acma.gov.au](http://www.acma.gov.au), a series of frequently asked questions on mobile number portability.

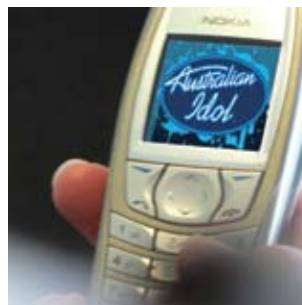
#### Unauthorised

The unauthorised transferring of mobile services was the second-highest mobile transfer complaint category. These complaints were further broken down into the following complaints:

- administrative error (6 complaints)
- transferred, despite the customer cancelling the transfer during the cooling-off period (30 complaints)
- customers not providing informed consent (96 complaints)
- transfer arranged by someone who was not the authorised customer (62 complaints).



# Mobile Premium Services Industry Scheme



## Background to MPSI

A mobile premium service offers customers mobile phone access to content such as horoscopes, mobile ring tones, wallpapers, weather information and chat services.

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 provided by a separate content provider.

The involvement of two separate suppliers for billing and content has led to much confusion for customers. Customers who wish to dispute charges have traditionally approached their mobile supplier, but with mobile premium service charges, mobile suppliers typically have no systems in place to identify what service has been charged or how the service may have been requested.

Mobile premium services operate on number ranges that are different from those used by normal phone calls. Those initiated via a premium rate SMS typically involve sending an SMS to a number starting with 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).

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, terms and conditions on which mobile premium services are offered and about handling of complaints regarding mobile premium services.

The scheme, known as the Mobile Premium Services Industry (MPSI) scheme, was approved by ACMA on 28 September 2006 and took effect on 28 October 2006. The TIO, as the nominated escalated complaints handling body under the MPSI scheme, began recording complaints on 1 December 2006. As the TIO's power to investigate MPSI complaints comes from the MPSI scheme rather than the TIO scheme, the TIO records and reports on MPSI complaints separately to other types of complaints.

Before 1 December 2006, the TIO recorded complaints relating to mobile premium services as Mobile Billing complaints. The TIO would also record breaches of ACIF codes in complaints about mobile premium services. The TIO now only records breaches of the MPSI scheme.

## Objectives of the scheme

The key objective of the scheme is to establish a framework to implement appropriate community safeguards in relation to the use of mobile premium services. The rules are intended to:

- prohibit and restrict certain mobile premium services in accordance with the National Classification Code and community expectations about the accessibility of those services
- promote the safety of children in relation to mobile premium services that might be used for illegal contact between children and adults
- ensure that customers have sufficient information enabling them to make informed decisions about using mobile premium services
- ensure the availability of an independent complaints handling mechanism.

The MPSI scheme also specifies the conditions of membership of the scheme and the procedures for any amendment of the scheme in the future.

The scheme sets out the rules with which members of the scheme are required to comply, including the procedures applicable to resolving customer complaints, removal of offending content services and other matters. A failure to comply with the rules of the scheme, including failure to implement any remedy determined by the TIO as the independent escalated complaints handling body, may be deemed a breach of the Determination, for which penalties may be enforced by ACMA.

More specifically, the provisions of the MPSI scheme to which the TIO has regard are intended to provide that:

- customers are sufficiently informed of the nature, prices, terms and conditions of premium mobile services at the point of sale, in advertising, and while using the services
- customers can readily access an "unsubscribe" mechanism for each premium mobile service, to discontinue a service and avoid incurring further premium charges
- persons under the age of 18 years do not have access to adult content
- customers have a convenient, fair and efficient means of resolving complaints arising in respect of mobile premium services.

Where a complaint relates to the classification or assessment of content, the TIO will refer that aspect of the complaint to ACMA so that they can assist in resolving the complaint.

# Mobile Premium Services Industry Scheme



## Complaint statistics

On 1 December 2006, the TIO began recording complaints as the escalated complaint handling body for the MPSI scheme. From 1 December 2006 to 30 June 2007, the TIO recorded 7,086 complaints under the scheme, with a total of 10,083 complaint issues. 181 of these complaints were escalated to Level 2, with 10 being further escalated to Level 3. One complaint is being investigated at Level 4.

The escalation rate for complaints recorded under the MPSI scheme is the lowest for any service type under the TIO's jurisdiction. Internet, mobile and landline complaints received under the TIO scheme have escalation rates between 6.1 per cent and 6.9 per cent. Only 2.6 per cent of complaints received under the MPSI scheme went on to be investigated at Level 2 during 2006/07. This suggests that TIO members are aware of their obligations under the scheme and are willing to resolve complaints at Level 1.

The TIO has some concerns that the MPSI obligations are possibly not being met until after the TIO has referred a customer back to their provider. This view is based on the high number of complaints taken under the scheme, the relatively low escalation rate and the fact that the TIO can record a complaint only when the complainant has been unable to resolve the matter directly with their provider. Given the newness of the scheme, the TIO will be watching MPSI complaints closely over the coming year for evidence that the mobile premium services industry as a whole has embraced the scheme.

About 60 per cent of MPSI complaints related to claims that charges were incurred for services that were not requested. There are a number of possible reasons for this, one being that complainants believe they are requesting a once-off service but are instead entering into an ongoing subscription.

While content providers are obliged to advise that a service is provided on a subscription basis and to provide mechanisms for identifying the charges on the account, the TIO records complaints at Level 1 based on the information provided by the complainant. Given the low escalation rates for complaints, most of these breaches are at Level 1 and would therefore not be investigated formally.

Almost 10 per cent of MPSI complaints related to a supplier either not actioning, or refusing to action, an opt-out request. The TIO is concerned that some suppliers or content providers may still not be aware of their complaint-handling obligations under the scheme, or the TIO's role as the escalated complaint handling body.

In addition to 244 complaints recorded for an alleged failure of the supplier to assist the complainant to address their complaint, over 10 per cent of MPSI complaints related to an alleged failure of a supplier or content provider to pass on information about the role of the TIO in handling complaints.

In investigating MPSI complaints, the TIO has regard to the provisions of the MPSI *Guidelines*. The *Guidelines* require content providers of subscription and non-subscription services to notify customers when their expenditure exceeds \$30 a calendar month; or, where their expenditure on a subscription service is less than \$30 within a 30-day period, remind the customer that they continue to be subscribed. This obligation applies for each premium SMS service and/or short code.

The TIO is concerned at the number of content providers that do not help customers to monitor and manage their usage of premium services by complying with the *Guidelines*. While the TIO does not have the power to enforce the *Guidelines*, it considers them to be a benchmark of good industry practice that it will take into account when making an assessment of what is fair and reasonable in any given complaint.

## CASE STUDY

# Mobile premium services

### The complaint

The complainant contacted the TIO about a \$2,600 bill for premium SMS charges that he did not request.

He said that he first became aware of the charges when his provider contacted him to advise that his bill had reached \$1,000, at which time he was told that the charges were for a dating service. He said that despite him sending a “stop” message, the messages continued.

The provider said it considered the consumer responsible for the charges as he had registered for the service by providing his personal details, and there was no record of his having texted “stop”. In order to resolve the complaint, it offered to waive about \$500 of the disputed charges.

### TIO response

The TIO asked the provider for a full copy of all text messages between the consumer’s mobile and the dating service. It was clear that, while the consumer had requested the service, he had also sent a “stop” message. The provider responded to the “stop” message by advising that the session was closed, and that in order to restart the consumer would need to send his name.

At the same time, however, the dating service sent a message to the complainant advising that the person he had been conversing with was “in the office”. In subsequent messages that appeared to relate to the complainant’s request to cancel the service, the dating service gave the impression that the service had been cancelled and that any further contact the complainant may choose to have was not be through the dating service – rather, it would be as a private text conversation between the complainant and the dating service’s operator. This contact appeared to be the starting point for an additional 600 premium messages to the complainant, at a cost of about \$1200, despite the complainant questioning in a return message how the dating service was able to send him messages when the service had been cancelled.

### The outcome

The mobile provider offered to reduce the charges to \$800 to reflect the charges that the consumer had used before texting “stop” and the TIO’s position on unlimited credit. The complainant advised that he was satisfied with this resolution.

# Mobile Premium Services Industry Scheme *continued*



## Breaches of the scheme

Since it began logging complaints under the MPSI scheme, the TIO has recorded 8,036 possible breaches of the MPSI scheme. These breaches were recorded against 47 different providers. Given that this is the first year in which the TIO has recorded complaints under the MPSI scheme, no comparisons are possible yet.

That the TIO has not yet confirmed a breach of the MSPI scheme is not indicative of the performance of industry. Confirmed breaches are recorded only at the completion of a formal investigation. During 2006/07 the TIO completed only three formal investigations under the scheme.

65 per cent of recorded breaches of the scheme related to a complainant's allegations that they had been charged for services that they did not request.

Almost 12 per cent of breaches related to claims that the customer was not able to unsubscribe from a service, either due to: an inability to contact the supplier or content provider to request cancellation of the service; a delay in actioning the opt-out request; or a refusal to accept the opt-out request.

13 per cent of breaches recorded by TIO staff were in response to claims that providers did not adhere to time-frames for resolving complaints or advise complainants of their options in regard to unresolved complaints.

## CASE STUDY

# Mobile premium services

### The complaint

The complainant contacted the TIO claiming to have received premium SMS services that he did not request.

He claimed that, after speaking with his mobile provider, he requested that the services be cancelled, but that he continued to receive messages. He advised that, while the mobile provider had offered to credit any charges incurred after he asked for the service to be cancelled, he wanted all the charges credited as he did not request the services.

### TIO response

The TIO asked the provider to consider the complaint and advise the TIO how it believed the matter could be resolved.

In its response, the mobile provider advised that the complainant subscribed to the services and had downloaded the ring tones and games received from the subscription. In order to resolve the complaint, however, in addition to its previous offer to credit charges incurred after he opted out of the service, the provider offered to credit approximately \$40 in late payment and barring fees that it had applied to his account, leaving the complainant to pay approximately \$60 in premium SMS charges.

After receiving this information from the TIO, the complainant restated his claims that he had not requested the premium SMS services, and that the first time he received a message he thought it was from a friend but that when he opened it, he could not access anything. He claimed that, although he had then received one message a day, he deleted them without opening them. He also claimed that no one else had access to his mobile service. In response to this information the TIO requested that the mobile provider supply evidence that the complainant had requested the premium services.

The mobile provider provided detailed evidence that, while the premium SMS services were requested over the internet, a request was received from the complainant's mobile service asking for a PIN number to access premium services. It also provided evidence that a PIN was provided to the complainant's mobile, and that the same PIN was used from the complainant's mobile to confirm acceptance of the subscription. It also re-stated that the information provided to the complainant's mobile was used to download games and ring tones from the internet.

### The outcome

Based on this evidence, and the complainant's claims that no one else had access to his mobile service, the TIO formed the view that no further investigation was warranted and that the offer previously made to the complainant was in fact a reasonable offer aimed at resolving the complaint.

# Systemic issues investigations

During 2006/07, the following systemic issues were completed.

## Optus Mobile

### *Billing of “\$79 Cap” plan*

#### **Complaint**

The TIO received several complaints from customers who had subscribed to Optus Mobile’s “\$79 Calls” plan. The plan offered \$500 worth of voice and text calls each month for \$79. However, customers said Optus’s invoices were confusing and it was not clear whether the requisite credits under the plan had been applied. They could not monitor their usage; hence some customers exceeded the cap and faced substantial charges.

The TIO was concerned that the bills themselves were confusing. In the course of the investigation, the TIO considered several potential breaches of the industry *Billing Code*. The TIO also expressed concern that the promotional material for the \$79 cap was difficult to reconcile with the fees and charges that customers were subsequently billed.

#### **Resolution**

Optus resolved the complaints by cancelling the mobile contracts without penalty, on condition that complainants return their handsets. Optus advised that the billing concerns highlighted by the TIO largely referred to customers who had contracted to capped plans before December 2005. Those who had signed up after that date received invoices that were clearer. Optus also said that from April 2007 a new billing platform, which would produce much clearer invoices, would service all capped plan customers.

The TIO expressed concern that Optus’s billing system did not allow customers to monitor their unbilled call spend and Optus verified that this, too, would be remedied by the new billing platform. Notwithstanding the improvements that the new platform was scheduled to introduce, the TIO advised Optus that it would investigate any future complaints from mobile users about the same issues and it recorded breaches of Clauses 6.3.1(c) and 7.3.1(b) of the *Billing Code*.

## West Australian Networks

### *Billing of complaint-handling fees*

#### **Complaint**

A consumer complained that West Australian Networks (WAN) was charging him more than the agreed rate for his broadband service. The TIO commenced an investigation and in response WAN billed the complainant more than \$200 for lodging a “frivolous” complaint with the TIO.

It was revealed that WAN had provided for the passing on of complaint handling fees in its acceptable use policy (AUP). The TIO was concerned that the inclusion of the term may be a breach of several industry codes and may also breach Commonwealth telecommunications and trade practices legislation. The TIO therefore considered potential breaches of the industry *Complaint Handling Code* and *Consumer Contracts Code* as part of its investigation.

#### **Resolution**

WAN agreed to remove from its AUP the clause providing for the passing-on of complaint handling fees. WAN also agreed to remove the charge from the complainant’s account to resolve this aspect of his dispute. The TIO concluded that the term of the AUP which permitted the charging of complaint handling fees would constitute an unfair contractual term. Breaches of Clause 7.4.1 of the *Complaint Handling Code* and Clause 6.1.1 of the *Consumer Contracts Code* were therefore recorded.



## CyberOne

### *Shaping of unlimited broadband services*

#### **Complaint**

Several customers contacted the TIO about CyberOne's "No Limits" ADSL plans. They said that CyberOne had unilaterally varied their conditions of service by introducing an acceptable use policy. The AUP caused the "shaping" (restriction) of their service speed once their usage reached 30 gigabytes in a given month. The TIO was concerned that the implementation of the AUP had significantly altered the "unlimited" nature of CyberOne's plans.

CyberOne said the AUP was always a part of its general terms and conditions but it had never been enforced before. Based on an analysis of CyberOne's online sign-up procedures, the TIO formed the view that customers would not have been given an opportunity to consider the AUP before signing up and therefore CyberOne may be in breach of its agreement with its customers. The TIO was also concerned that the nature of the AUP and its implementation may be contrary to the industry's *Consumer Contracts Code* and *Customer Information on Prices, Terms and Conditions*.

#### **Resolution**

Complainants were offered release from their contracts without penalty and CyberOne reworded its AUP to clarify to new customers that, if their monthly usage exceeded 30 gigabytes, CyberOne had the discretion to shape their service.

The TIO concluded that the wording of the original AUP was unduly broad and that the shaping of plans that were sold as "no limits" products was inconsistent with industry guidelines. The TIO therefore recorded breaches of Clause 6.1.1 of the *Consumer Contracts Code* and Clauses 7.2 and 7.12 of the *Customer Information on Prices, Terms and Conditions Code*.

## Veridas Communications

### *Unauthorised transfer of NetXP customers*

#### **Complaint**

Customers of NetXP, an internet service provider, claimed that their service had either been disconnected by Veridas or had been transferred to Veridas without notice. Some also claimed that they had been approached by Veridas and had been asked for personal information, including credit card details.

Veridas confirmed to the TIO that it had cancelled its supply contract with NetXP for an alleged breach of conditions of the wholesale arrangement between the two companies. The TIO was concerned with the alleged approaches being made by Veridas to NetXP customers and it notified Veridas that the unsolicited transfer of customers from NetXP may contravene a number of provisions of the industry *Customer Transfer Code*.

#### **Resolution**

Shortly after the TIO had begun its investigation, Veridas announced that it intended to cease trading. The TIO contacted all those customers who had lodged complaints in advance of the closure of the Veridas network, and all of them advised that NetXP had successfully restored their services with a new supplier. The TIO discontinued its investigation.

# Systemic issues investigations *continued*

## Ace Communications

### *Failure to issue invoice prior to direct debit*

#### Complaint

The TIO received a complaint from a consumer who had subscribed to Ace Communications' VoIP service and paid by direct debit using a credit card. The complainant said that Ace Communications had routinely debited her credit card before issuing her with a monthly invoice. The complainant claimed that she had been overcharged several times and that she was not able to verify whether the charges were correct because invoices were not issued before the direct debit transaction.

The TIO advised Ace Communications that it was concerned that customers paying by credit card may have no way of verifying their charges before monthly debits occur. The TIO also expressed concern that, by failing to supply invoices in advance of the debits, Ace Communications may not be complying with the industry's *Billing Code*.

#### Resolution

The complainant received credits for all disputed call charges and decided to transfer her services to an alternative supplier. Ace Communications acknowledged that it is currently unable to issue customers who choose to pay by credit card with an invoice before direct debits occur and explained that this is caused by a limitation of its billing system. However, Ace also said its merchant facility through its financial institution did not allow it to overdraw a credit card, so it did not foresee that any customers would incur dishonour fees. Ace said it provided an alternative payment method, which enabled customers to receive a tax invoice before their account was debited. This method is a direct debit from the customer's bank account.

While the TIO acknowledged that Ace Communications was constrained by a system limitation, the TIO formed the view that the company was not compliant with the *Billing Code* and it therefore recorded a breach of Clause 9.2.3 of the code.

## Axis Telecoms

### *Contractual advice at point of sale*

#### Complaint

Axis Telecoms is a telephone service provider that bundles carriage service agreements with telephone equipment leases, billed by separate finance companies. Axis offers customers call credits against their telephone account to offset the cost of the equipment lease. Both the contract for carriage service and the leasing agreement for the hardware are generally sold by the same representative. The TIO received complaints from a number of Axis customers who raised the following concerns.

- Customers believed that both contracts were administered by Axis and claimed not to have been advised about a separate agreement with a finance company.
- Point-of-sale advice regarding the length of the agreement and the amount of call credits offered by Axis was inaccurate.
- Inaccurate advice pertinent to the carriage service agreement had caused customers to commit to equipment lease contracts, which featured substantial pay-out figures.

The TIO was concerned that the sales agents representing Axis may not have provided accurate advice to customers and that the relationship between Axis, the sales agent and the finance company supplying the equipment lease might not have been adequately explained to customers. In this respect, the TIO was concerned that the oral advice of the sales representatives and the written format of the bundled contracts might not have complied with the industry's *Customer Transfer Code* and *Customer Information on Prices, Terms and Conditions Code*.

#### Resolution

Axis maintained throughout the investigation that the complaints received by the TIO arose for different reasons and that they were not sufficiently similar to be indicative of a systemic problem. The TIO disagreed with Axis's assessment and said that, in its view, all of the complaints stemmed from the alleged inaccuracy of the advice provided at point of sale. Further, in all cases, the customers claimed to have suffered significant financial detriment as a result of the advice.

Axis subsequently resolved each of the individual complaints to the satisfaction of the TIO and agreed to engage with the sales companies to propose some improvements to the quality assurance process associated with the sale of the bundled services. These included:

- sales companies being instructed to ensure that customers were made aware of the identity of the finance company and the cost of the equipment lease
- Axis developing compliance guides for sales staff informing them of their obligations under telecommunications industry codes and fair trading legislation.

The TIO formed the view that, if all of Axis's proposals were successfully implemented and adhered to by the sales companies, the volume of complaints regarding point-of-sale advice would likely be reduced. However, the TIO also commented that it remained concerned with the complexities associated with the bundled products, particularly in respect of the number of companies involved in the sale and supply of the services. In this regard, one of the complainants had reported that, following his termination of the bundled agreements, he was invoiced a substantial amount of money by a company he had not been informed of and whose name did not feature in the contract documents. On the basis of his complaint, the TIO recorded breaches of Clauses 6.4.1 and 6.8.2 of the industry's *Customer Information on Prices, Terms and Conditions code*.

## Axis Telecoms

### *Unauthorised transfers*

#### **Complaint**

The TIO received a complaint from a customer who was billed by Axis Telecoms for long-distance and mobile calls. He had received a notice from Axis advising that the local line rental portion of his service would be transferred to Axis unless he opted out of the transfer in writing within 30 days. The complainant exercised his right to opt out but was concerned that the company had proposed the transfer without proper authority.

During preliminary enquiries, Axis confirmed to the TIO that it had sent similar notices to a large number of customers because it had recently become capable of supplying the local service and equipment portion of their services. It advised that it was seeking to rely on a term of the original contract to effect the transfers. The TIO was concerned that, by proceeding with a transfer initiative on an opt-out basis, Axis may not be complying with the industry's *Customer Transfer Code* because it would not be obtaining the "informed consent" of its customers. Further, the TIO was concerned that appropriate warnings may not have been given to customers regarding the impact that the proposed transfers would have on supplementary services such as ADSL.

#### **Resolution**

Following the notification of the systemic investigation, Axis agreed that it would not proceed with any transfers until the issue of informed consent and its obligations under the industry codes were resolved. The TIO was concerned that the *Customer Transfer Code* implied that informed consent needed to be obtained from the customer close to the actual transfer.

The TIO was also concerned about the broad discretion that the original contract terms appeared to confer on Axis and it indicated that the provision allowing for transfers at any stage of the agreement may have been considered an unfair term. The TIO concluded that, if Axis still intended to transfer the service and equipment portion of its customers' telephone accounts, the transfers would need to take place under new agreements. Axis subsequently advised the TIO that it would not proceed with the transfer of any customers' services without a recent, signed consent in accordance with the *Customer Transfer Code*. Accordingly, no code breaches were recorded.

## iiNet

### *Equipment payout following variation of contract*

#### **Complaint**

The TIO received complaints that iiNet had advised some customers that the speed of their ADSL plan would be reduced from 1,500 Kbps to 512 Kbps. To maintain their preferred speed, they would be required to pay an extra \$20 a month. iiNet advised customers that, if they did not wish to pay the additional fee, they could either accept the reduction in speed or cancel their contract without paying any exit fees. However, customers who wished to leave and who had received a free modem as part of a sign-up deal were told that they would need to pay for the equipment.

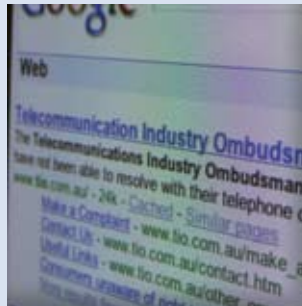
The TIO was concerned that iiNet was breaching its contract with customers by enforcing the charge, because the company's customer relationship agreement did not provide for the passing on of equipment charges where it had varied the terms of its agreement. The TIO was also concerned that the recovery of funds for equipment that had been issued "free", in circumstances where the service provider had varied the contract, might be unfair.

#### **Resolution**

The TIO recommended to iiNet that it develop a notification to be sent to all customers affected by the speed downgrade, correcting the initial advice they had been given. iiNet agreed to implement the TIO's recommended resolution in its entirety and customers who wished to cancel were allowed to do so without penalty on condition that they return their modems. Customers who had already chosen to leave and who had paid for their equipment received a rebate.

In response to the TIO's concerns about the possible breach of its contract with its customers iiNet agreed to amend the wording of its customer relationship agreement so that, in future, if it was required to vary the terms of customers' services it would not be entitled to recover the value of equipment that had been issued without cost.

# Overview



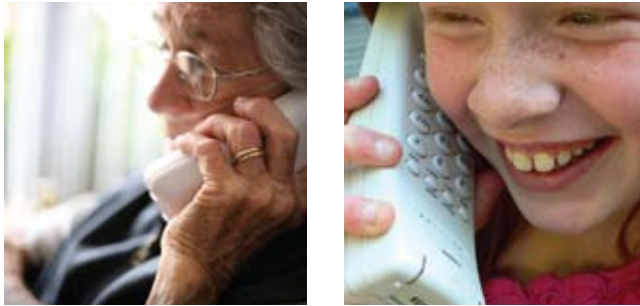
The TIO currently has regard to 14 ACIF codes, 10 comprising 7 operational and 7 consumer codes.

The 2006/07 year was notable for substantial increases in the recording of possible breaches of the *Billing Code*, *Prices Terms and Conditions Code* and the *Complaint Handling Code*. The *Billing Code* alone accounted for 38 per cent of possible code breaches, up from 26 per cent in 2005/06. 35 per cent of all confirmed code breaches were recorded against Level 2 complaints, the majority of which were escalated in the 2005/06 financial year. Confirmed code breaches were recorded in 21 per cent of formal Level 3 investigations.

It is important to note that, as of 1 July 2006, the TIO changed its procedures for recording both possible and confirmed code breaches. It is likely that many of the variations in code breach numbers can be attributed to these changes.

The *Telecommunications Act 1997* (Cwlth) allows for the Australian Communications and Media Authority (ACMA) to direct industry members to comply with a registered code. A code may only be registered where, among other things, ACMA is satisfied that the TIO has been consulted in the development of the code. Under Section 114 of the *Telecommunications Act 1997* (Cwlth), subject to the TIO's consent, a code may confer powers and functions on the TIO.

# Code development and review



The TIO has been observing with interest the amalgamation of all consumer codes in the *Telecommunications Consumer Protections Code* (often referred to as the *Single Consumer Code*) through its participation in the Consumer Issues Reference Panel. In June 2007, in response to the draft code, the TIO forwarded the Communications Alliance a number of comments for consideration and looks forward to viewing the code in its final form.

## Code complaints

### TIO procedures

From 1 July 2006, to assist with capturing all possible code breaches at Level 1, the TIO amended its procedures for identifying and recording breaches by aligning complaint keywords with ACIF codes. When particular keyword sequences are recorded, staff are prompted to ask specific questions aimed at identifying whether a possible breach has occurred. The result is that the number of possible code breaches recorded by the TIO has increased, as the TIO is more consistently capturing code breaches.

From 1 July 2006, the TIO also stopped investigating code breaches at Level 2. While the TIO still has regard to industry codes in resolving all complaints, investigations to confirm whether a breach has occurred are now conducted only in formal investigation at Level 3 or above. The result is that the number of confirmed code breaches recorded by the TIO has decreased.

During a Level 3 investigation, TIO members are given the opportunity to respond to the complainant's allegations and

provide evidence in support of their position. During the investigation, the TIO will only raise code breaches that relate to outstanding, unresolved issues. This results in complaints that are of a secondary nature, such as some complaint handling and customer services issues, being less likely to be addressed in a formal investigation. If a code breach allegation is sustained, a confirmed breach is recorded. If the evidence does not support that a code breach occurred, no code breach is recorded. No "possible" breaches are recorded at Level 3 or above.

Code breaches at both Levels 1 and 2 are recorded primarily as "possible", and the allegation is not directly pursued with the member. A number of Level 2 complaints have recorded confirmed code breaches this year. This is due in part to Level 2 complaints being escalated in 2005/06 and closed in 2006/07 and to a small number of complaints investigated at Level 3 being downgraded to Level 2 at closure.

The TIO continues to send code breach statistics to ACMA and the Communications Alliance on a quarterly basis. In addition, the TIO provides complaint statistics and analysis to ACMA to assist it in identifying any members that appear to be consistently breaching registered codes.

The TIO also has the power to refer any member that demonstrates systemic failure to comply with a code to ACMA. ACMA is empowered to direct referred members to comply with the codes. Failure to comply with an ACMA direction may result in legal action being taken against those members. In 2006/07, the TIO referred one member to ACMA for non-compliance with industry codes.

# Code statistics

The TIO recorded 54,157 code breaches in 2006/07, comprising 53,809 possible breaches and 348 confirmed breaches.

This represents a significant 162 per cent increase from 2005/06, which was largely due to the TIO's new procedures to capture and record breaches more consistently at Level 1.

The increase was primarily driven by a 170 per cent increase in the number of possible breaches recorded, which equates to 33,587 additional possible breaches.

The TIO also noted a 50 per cent decrease in the number of confirmed breaches, which fell from 688 to 348. This decrease was driven by the TIO ceasing to investigate code breaches at Level 2 for complaints escalated after 1 July 2006.

Breaches of the *Billing Code* were the prime cause of the substantial increase. To a lesser extent, possible breaches of the *Complaint Handling Code* and the *Prices, Terms and Conditions Code* contributed to the significant increases.

Complaints relating to operational codes did not feature prominently, accounting for 0.6 per cent of all breaches recorded and 1.4 per cent of all confirmed breaches.

## Billing

The single largest increase in code breaches was recorded in relation to the *Billing Code*.

Given the high number of code breaches associated with premium SMS services in 2005/06, the TIO anticipated that the introduction of the Mobile Premium Services Industry (MPSI) scheme in November 2006 would reduce the number of code breaches recorded. This is because ACIF code breaches would not be recorded for MPSI complaints at Level 1 or 2. This has not been the case. Instead, the total number of breaches increased by over 15,000.

Twice as many providers as in 2005/06 recorded possible breaches, with 320 individual providers (compared with 166 providers last year) recording breaches of this code. Recorded breaches increased by 281 per cent and account for nearly 38 per cent of all code breaches. Confirmed breaches of this code fell by 21 per cent during the year. 31 individual suppliers were responsible for the confirmed breaches.

Nearly 90 per cent of code breaches relate to charges that the complainant alleges they did not request or use and were not contracted to receive (as per Clause 7.3.1).

While internet providers recorded fewer breaches than landline or mobile providers, breaches by internet providers increased by almost 600 per cent. One internet provider alone accounted for almost 40 per cent of all breaches of the *Billing Code* recorded by internet providers.

Code breaches relating to the direct debit of payments are also emerging as a source of concern. While it is an issue for all suppliers, two-thirds of direct debit code breaches were recorded by internet suppliers. Approximately 70 per cent of these breaches relate to bills not being issued in a timeframe that allows the customer to check the charges before the direct debit takes place. The TIO will be monitoring direct debit complaints closely in 2007/08.

## Complaint Handling

Complaint Handling is another code that recorded substantial increases during 2006/07. Possible breaches increased by 85 per cent and account for 32 per cent of all recorded breaches. TIO staff recorded *Complaint Handling Code* breaches against 288 individual providers, compared with 219 last year. Confirmed breaches decreased by almost two-thirds.

Almost 82 per cent of code breaches relate to the alleged failure of suppliers to refer dissatisfied customers with unresolved complaints to the TIO (Clause 7.6.1). There were 12 confirmed breaches of this clause recorded, accounting for 12 per cent of all confirmed *Complaint Handling Code* breaches. The new investigations processes that began on 1 July 2006 have resulted in the low ratio of confirmed breaches of this clause to the number of possible breaches recorded. Unless a complainant has experienced additional disadvantage as a result of a failure of a supplier to refer them to the TIO, the TIO would be unlikely to pursue a breach of this clause at Level 3.

This year the TIO received almost 4,000 complaints relating to claims that a supplier failed to action an undertaking made to a customer in the course of resolving a complaint. Clause 7.3.5 of the *Complaint Handling Code* requires suppliers to have appropriate methods and/or mechanisms in place in order to take action and monitor undertakings made to customers in the resolution of complaints. The TIO has been reluctant to record isolated instances of human error as breaches of the code because this does not demonstrate that a mechanism is not in place. The TIO is of the view, however, that a mechanism cannot be considered to be appropriate or effective if a supplier repeatedly fails to action undertakings despite the existence of that mechanism.

For this reason the TIO would investigate breaches of this clause in the event that a supplier demonstrated an ongoing pattern of failing to action undertakings made to customers.

## Prices, Terms and Conditions

Possible breaches of the *Prices, Terms and Conditions Code* increased by a significant 489 per cent. Confirmed breaches increased by 56 per cent, up from 30 to 47. The TIO recorded breaches against 196 members, up from 88 in 2005/06. Confirmed breaches were recorded against 17 members.

Approximately 80 per cent of all code breaches related to Clause 6.5.1 or 6.1.1. These clauses are primarily concerned with providing information to customers to assist them in giving informed consent to enter a contract. Clause 6.5.1 requires providers to sell their customers products that meet their stated requirements or provide information regarding technical or geographical limitations to the service. Clause 6.1.1 requires providers to ensure that they offer customers accurate and up-to-date information that is relevant to the customer's requirements. Recorded breaches against these clauses totalled in excess of 6,000 this year (700 in 2005/06).



## Credit Management

Breaches of the *Credit Management Code* increased by 147 per cent in 2006/07. As the 2005/06 and 2006/07 years contains code breach statistics that relate to different versions of the code, it is difficult to offer any direct comparison. However, the TIO does believe that this increase is all the more significant given that the code was registered on 13 April 2006. The TIO's policy in relation to new codes is to register breaches of the old code only up to the date of the registration. Once a new code is registered, only complaints that may involve breaches that occurred after the registration date will be recorded. This normally results in a decline in code breaches recorded immediately after the registration date.

A number of provisions of the revised code relating to financial hardship, and requirements for suppliers to have hardship policies and processes in place, came into effect on 13 October 2006. Since this date, almost 1,000 breaches relating to financial hardship were recorded against these provisions. Almost 70 per cent of the breaches related to a complainant's inability to obtain a payment arrangement that took into account their individual needs (Clauses 6.1.2 and 6.1.3). The TIO considers that suppliers need to take further steps to ensure that they have compliant hardship policies in place, as well as appropriate methods to identify customers to whom these policies should apply.

Almost 12 per cent of code breaches by mobile phone suppliers related to over-commitment and the lack of adequate supplier measures in relation to credit assessment, the supply of services to limit expenditure, and supplier tools to assist customers to manage expenditure. This is disappointing, particularly given that these figures do not relate to a full year.

The largest source of code breaches related to providers' alleged failure to notify customers of outstanding debts and the likelihood and outcome of credit management action. Approximately 24 per cent of code breaches related to this issue.

During the year the TIO recorded 18 confirmed breaches of Clause 5.7.1, which requires suppliers to suspend credit management on disputed charges while the amount is being investigated by the supplier or the TIO. The TIO therefore remains concerned at the alleged failure of providers to halt debt recovery of genuinely disputed amounts.

## Customer Transfer

Recorded breaches of the *Customer Transfer Code* increased by 791 this year. As a percentage of all code breaches, *Customer Transfer Code* breaches accounted for 4.4 per cent, down from 7.7 per cent in 2005/06. This reduction in the overall percentage should not be seen as evidence of improved industry performance, particularly given that the TIO confirmed 42 breaches of the code after investigation at Level 3, versus 78 in 2005/06 after investigation of complaints at Level 2 and Level 3. The TIO recorded breaches of the code against 124 providers, compared with 93 in 2005/06. This is the last year in which direct comparisons with previous statistics will be possible as ACMA registered a revised version of the *Customer Transfer Code* on 5 July 2007.

The TIO is concerned at the large number of internet and landline breaches – almost 90 per cent of all breaches of the code relating to the absence of, or problems with, the authority (including informed consent) for a transfer. The TIO is of the view that only the person who has the existing contract with the provider, or their legally authorised representative, can provide consent to transfer a service.

When investigating complaints that relate to unauthorised transfers, a frequent finding is that the authorised representative requesting the transfer is not "legally authorised" as per the code definition. In these cases, suppliers often argue, and provide supporting evidence by way of voice recordings, that the person advised that they were authorised to request the transfer.

The TIO considers that, in order to accept a person's statement that they are authorised to consent to the transfer, the supplier must take steps to inform the person as to what constitutes a legal authority and that by not doing this, the supplier runs the risk of processing an invalid transfer.

Also of concern is the increasing number of Customer Transfer breaches related to internet services. Although internet suppliers recorded a relatively small percentage of breaches of the code, these increased as a proportion from 2.5 per cent to 8 per cent, rising from 39 in 2005/06 to 199 in 2006/07. While the majority of these related to authorised consent, an increasing number of breaches related to confirmation of the transfer, both before and after the transfer is implemented.

In the 2005/06 *Annual Report*, the TIO commented on a secondary issue arising from an unauthorised transfer whereby a customer cannot access their account after the service has been transferred. Upon investigation it appeared that, after relying on an authorised representative's consent to transfer a service, the account was transferred into the name of the authorised representative, effectively resulting in the authorised representative taking over the contract. The TIO is pleased that it is a requirement of the revised *Customer Transfer Code* that the gaining supplier must ensure that the transferred service remains in the name of the customer, even when dealing with an authorised representative.

## Consumer Contracts Code

2006/07 is the first full year in which the TIO has recorded breaches against the *Consumer Contracts Code*. Given that the TIO did not have regard to the code until November 2005, it is not possible to compare this year's numbers with those of 2005/06.

This year, the TIO recorded 269 breaches of the *Consumer Contracts Code*, including 17 confirmed breaches. This is the highest ratio of confirmed to possible breaches of all consumer codes to which the TIO has regard. The majority of breaches related to a unilateral variation of a contract by a supplier, either by failing to give advance notice to the customer or by failing to offer the customer the option of terminating the contract without applying termination charges.

The majority of confirmed breaches were recorded against complaints in which, after investigation, it was decided that the contract terms were unfair, as defined under Clauses 6.1.1, 6.1.2 and 6.1.3 of the code.

# Operational codes

## Mobile Number Portability

The TIO was pleased to note, for the second consecutive year, a significant reduction in *Mobile Number Portability Code* breaches in 2006/07. Possible breaches fell by 78 per cent, while only two confirmed breaches were recorded.

## Handling of Life-threatening and Unwelcome Calls

In 2006/07 the TIO recorded 244 breaches of this code. More than 70 per cent of these breaches related to the adequacy of processes that suppliers have in place for dealing with unwelcome calls, including advising complainants of their options.

While the overall number of breaches of this code are small, life-threatening and unwelcome calls can have serious implications for customers. The TIO is concerned that, with the increasing take-up of mobile telephones as the primary service, mobile providers accounted for 60 per cent of process-related breaches.

## Commercial Churn

The TIO recorded significantly fewer breaches of the *Commercial Churn Code* in 2006/07 than in previous years, recording 77 possible and one confirmed breach. This reduction was primarily the result of a change in the manner in which TIO staff capture breaches of this code. From 1 July 2006 TIO staff were not encouraged to record breaches of operational codes such as the *Commercial Churn Code* as, in order to record a possible breach, they were reliant primarily on the information provided by the complainant regarding their dealings with suppliers.

The TIO has taken the view that it is unlikely a complainant would be able to provide sufficient information regarding their network at Level 1 in order for the TIO to make an assessment as to which code, be it the *Commercial Churn Code* or the *Local Number Portability Code*, may apply and that this information is better sourced from the supplier during the course of a Level 2 or above investigation.

The TIO is concerned, however, at the large number of landline complaints regarding the absence of, or problems with, the authority of a transfer, particularly given the obligations on both the gaining and releasing service providers to verify the transfer authority.

The TIO is also concerned at the number of complaints regarding the failure of gaining service providers to reverse transfers that have been identified as potentially unauthorised. The TIO has continued to receive complaints where, on contacting the gaining service provider to dispute that consent was given for the transfer, the customer claims to have been advised to contact their previous provider to transfer their service back.

## Other Codes

The remaining operational and consumer codes to which the TIO has regard recorded very few complaints over the year.

TIO staff recorded five possible and one confirmed breach of the *Connect Outstanding Code*. Only two suppliers recorded breaches.

During the year, there was only one breach of the *Calling Number Display Code*, which was confirmed at Level 3. One possible breach of the *Local Number Portability Code* was recorded, as well as one possible, and one confirmed, breach of the *Priority Assistance Code*.

## Summary of code breaches 2006/07

Code name	Possible*	Confirmed**	Total	% of total
Billing	20,256	97	20,353	37.6
Calling Number Display	-	-	-	0.0
Commercial Churn	77	1	78	0.1
Complaint Handling	17,415	100	17,515	32.3
Connect Outstanding	5	1	6	0.0
Consumer Contracts Code	252	17	269	0.5
Credit Management	5,395	40	5,435	10.0
Customer Transfer	2,331	42	2,373	4.4
Handling of Life-Threatening or Unwelcome Calls	244	-	244	0.5
Local Number Portability	1	-	1	0.0
Mobile Number Portability	16	2	18	0.0
Priority Assistance	1	1	2	0.0
Prices Terms and Conditions	7,816	47	7,863	14.5
Total	53,809	348	54,157	100.0

\* Code Breaches logged as **Possible** as no formal investigation was undertaken into complaints

\*\* Confirmed after investigation at Level 3 and above

# Member complaint statistics

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

It is important that readers bear in mind the varying sizes of the TIO's member organisations in order to avoid making inaccurate comparisons. The TIO does not standardise its member specific complaint statistics and is unlikely to do so in the future.

## 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 a complaint. 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 the complaints were resolved. This provides 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.

Complaints against TIO Members by Issue - Landline, Mobile and Internet (non-standardised)													1 July 2006 - 30 June 2007 (Includes members that received 25 or more complaints logged for the year)													(t) = telephone service provider (i) = internet service provider (o) = other (c) = holds carrier licence													* Other includes Directories, Disability, Phonecards, Payphones, and land Access. ^ Other includes Directories, Disability, Phonecards, land Access, Privacy, and Provisioning # Other includes Disability, land Access, Privacy, and Transfer												
	Total Issues	Land Line										Total Land Line	Mobile										Total Mobile	Internet										Total Internet																	
		Billing and Payments	Complaint Handling	Credit Management	Transfer	Customer Service	Contracts	Faults	Privacy	Provisioning	Other*		Billing and Payments	Contracts	Credit Management	Customer Service	Complaint Handling	Faults	Transfer	Other^	Billing and Payment	Contracts		Credit Management	Customer Service	Complaining Handling	Faults	Provision	Other#																						
1800Mumdad Pty Ltd (t)	38	0	0	0	0	0	0	0	0	0	0	25	0	0	6	7	0	0	0	0	38	0	0	0	0	0	0	0	0	0	0																				
AAPT Ltd (t & i)(c)	6,029	1452	711	667	461	595	154	383	81	143	54	4701	244	61	152	74	106	24	21	4	686	160	49	44	127	80	62	83	37	642																					
ACN Pacific Pty Ltd (t & i)	267	53	35	25	17	29	5	37	10	9	5	225	21	3	5	7	3	1	0	2	42	0	0	0	0	0	0	0	0	0	0																				
Adam Pty Ltd (i) (c)	113	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	20	5	20	7	26	22	4	113																					
Amcom Telecommunications Ltd (i) (c)	42	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	5	0	5	10	11	2	0	42																					
Australian Private Networks Pty Ltd (i) (c)	63	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	4	0	10	13	23	12	0	63																					
Australia Star Communications Pty Ltd (t)	1,057	68	56	11	28	41	86	15	1	11	6	323	100	324	15	66	110	36	31	7	689	9	15	1	3	7	6	1	3	45																					
Astron Communication and Information Services Pty Ltd (t)	276	44	35	6	89	33	17	6	19	2	0	251	1	0	1	1	0	0	0	0	3	2	5	1	2	4	4	3	1	22																					
AstraTEL Pty Ltd (i)	40	8	6	0	0	6	3	3	0	0	2	28	0	0	0	0	0	0	0	0	0	5	2	0	2	1	2	0	0	12																					
Esmonde, David John (t & i)	63	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	3	0	22	3	19	2	0	63																					
Aurora Energy AAPT Pty Ltd (t & i)	243	42	27	14	84	23	16	8	4	2	0	220	0	0	0	0	0	0	0	0	0	10	3	0	3	6	1	0	0	23																					
AUSTAR United Mobility Pty Ltd (t)	85	0	0	0	0	0	0	0	0	0	0	0	15	9	3	14	15	27	0	2	85	0	0	0	0	0	0	0	0	0																					
Australia Internet Solutions Pty Ltd (i)	68	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	8	1	13	9	21	0	2	68																					
True Telecom Pty Ltd (t)	209	14	21	5	46	54	1	64	0	0	2	207	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	2																					
Axis Telecoms Pty Ltd (t)	505	90	84	20	24	46	158	30	3	6	0	461	7	11	2	6	5	3	1	1	36	0	2	0	3	2	1	0	0	8																					
Soul Communications Pty Ltd (t & i)	1,525	71	28	23	18	32	8	24	4	2	0	210	366	152	171	147	167	167	6	7	1183	16	9	4	24	27	40	7	5	132																					
Blitz Telecom Australia Pty Ltd (t & i)	50	5	6	0	3	6	21	2	0	2	0	45	1	1	0	0	1	0	0	0	3	0	1	0	0	1	0	0	0	2																					
Bordnet Internet Pty Ltd (i)	390	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60	31	7	62	63	150	14	3	390																					
Clarus Telecom Pty Ltd (t & i)	50	2	4	0	18	3	5	2	10	0	0	44	0	0	0	0	0	0	0	0	0	0	0	0	0	4	2	0	0	6																					
BroadbandNet Pty Ltd (i) (c)	50	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	9	8	25	6	0	50																					
Motion Telecom Pty Ltd (t)	69	19	7	8	7	7	5	0	0	0	16	69	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0																					
Budget Telecom Pty Ltd (t & i)	85	21	9	15	16	8	0	3	0	1	2	75	3	0	0	1	1	0	1	0	6	0	2	0	0	0	2	0	0	4																					
Call Australia Pty Ltd (t)	55	5	5	2	3	4	1	2	0	0	0	22	7	8	2	2	8	0	1	0	28	2	2	0	0	0	0	0	1	5																					
CardCall Pty Ltd (t & i)	146	0	0	0	0	0	0	0	0	0	146	146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0																					
Chariot Ltd (i) (c)	142	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	22	10	5	39	16	33	16	1	142																					
Chilli Internet Solutions Pty Ltd (i)	53	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	21	5	1	8	13	3	2	0	53																					
Chi Telecom Pty Ltd (t)	33	0	0	0	0	0	0	0	0	0	33	33	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0																					
Clear Networks Pty Ltd (t & i)	121	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	10	13	0	19	16	54	8	0	120																					
Commander Australia Ltd (t & i)	257	52	0	21	10	27	41	24	0	10	37	222	4	6	0	5	1	0	0	0	16	4	4	1	3	2	0	2	3	19																					
ComCen Pty Ltd (i)	81	0	0	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	27	10	1	17	14	8	3	0	80																					
Commslogic Pty Ltd (i) (c)	108	0	3	0	0	3	0	1	0	0	0	7	0	0	0	0	0	0	0	0	0	6	13	7	19	24	32	0	0	101																					
Conceptual Internet Australia Pty Ltd (i)	74	0	4	0	0	1	0	6	0	6	0	17	0	0	0	0	0	0	0	0	0	6	3	0	14	9	13	12	0	57																					
Concert Telecom Pty Ltd (t)	108	38	14	1	16	10	11	2	0	2	0	94	4	7	0																																				

## Complaint statistics

### Complaints against TIO Members by Level - Landline, Mobile and Internet (non-standardised)

1 July 2006 - 30 June 2007 (Includes members that received 25 or more complaints in 2006/07)

(t) = telephone service provider (i) = internet service provider (o) = other (c) = holds carrier licence

Member Name	Total number of complaints	Level 1	Level 2	Level 3	Level 4
1800Mumdad Pty Ltd (t)	25	24	1	0	0
AAPT Ltd (t & i)(c)	3784	3675	95	13	1
ACN Pacific Pty Ltd (t & i)	163	156	7	0	0
Adam Pty Ltd (i) (c)	86	81	5	0	0
Amcom Telecommunications Ltd (i) (c)	26	26	0	0	0
Australian Private Networks Pty Ltd (i) (c)	36	36	0	0	0
Australia Star Communications Pty Ltd (t)	590	484	79	27	0
Astron Communication and Information Services Pty Ltd (t)	170	165	5	0	0
AstraTEL Pty Ltd (i)	28	25	3	0	0
Esmonde, David John (t & i)	38	34	3	1	0
Aurora Energy AAPT Pty Ltd (t & i)	145	117	23	5	0
AUSTAR United Mobility Pty Ltd (t)	56	55	1	0	0
Australia Internet Solutions Pty Ltd (i)	41	33	7	0	1
True Telecom Pty Ltd (t)	120	105	10	4	1
Axis Telecoms Pty Ltd (t)	281	237	33	11	0
Soul Communications Pty Ltd (t & i)	952	902	43	7	0
Blitz Telecom Australia Pty Ltd (t & i)	30	29	1	0	0
Bordnet Internet Pty Ltd (i)	223	193	25	4	1
Clarus Telecom Pty Ltd (t & i)	37	35	2	0	0
BroadbandNet Pty Ltd (i) (c)	32	28	4	0	0
Motion Telecom Pty Ltd (t)	40	34	4	2	0
Budget Telecom Pty Ltd (t & i)	52	48	4	0	0
Call Australia Pty Ltd (t)	31	30	1	0	0
CardCall Pty Ltd (t & i)	105	98	6	1	0
Chariot Ltd (i) (c)	93	91	2	0	0
Chilli Internet Solutions Pty Ltd (i)	28	26	2	0	0
Chi Telecom Pty Ltd (t)	28	24	4	0	0
Clear Networks Pty Ltd (t & i)	70	50	13	7	0
Commander Australia Ltd (t & i)	146	120	20	6	0
ComCen Pty Ltd (i)	49	35	9	5	0
Commslogic Pty Ltd (i) (c)	50	43	6	1	0
Conceptual Internet Australia Pty Ltd (i)	38	36	2	0	0
Concert Telecom Pty Ltd (t)	59	45	11	3	0
CyberOne Pty Ltd (i)	31	29	2	0	0
Digiplus Pty Ltd (t & i)	403	362	38	3	0
Direct Telecoms Pty Limited (t)	71	67	3	1	0
Dodo Australia Pty Ltd (t & i)	10108	9631	422	55	0
Edirect Pty Ltd (t)	488	421	52	15	0
EFTel Pty Ltd (t & i)	285	248	25	12	0
154 Collins Street Pty Ltd (i) (c)	43	41	2	0	0
eSTAR Telecom Pty Ltd (t)	39	36	3	0	0
Exetel Pty Ltd (i)	260	248	12	0	0
Fortconnect Pty Ltd (t)	59	46	8	5	0
Global Networks (Aust) Pty Ltd (t)	36	35	1	0	0
GoBush Broadband Pty Ltd (i)	80	77	3	0	0
Golden IT Pty Ltd (i) (c)	46	36	7	3	0
GOTalk Australia Pty Ltd (t)	1453	1391	55	7	0
Hotkey Internet Services Pty Ltd (i)	25	21	2	2	0
Hub Business Services Pty Ltd (t & i)	39	36	3	0	0
Hutchison 3G Australia Pty Ltd (o) (c)	7057	6566	444	47	0
iiNet Ltd (t & i)	863	793	62	8	0
iiNet (OzEmail) Pty Ltd (t & i)	110	103	5	2	0
Internode Systems Pty Ltd (i)	126	123	3	0	0
iSnap Pty Ltd (t & i)	40	34	6	0	0

Member Name	Total number of complaints	Level 1	Level 2	Level 3	Level 4
Jackar Australia Pty Ltd (i)	47	42	4	1	0
Just Mobile Telecoms Pty Ltd (t) (c)	43	43	0	0	0
Kern Internet Pty Ltd (t & i)	33	31	2	0	0
Koala Telecom Pty Ltd (t & i)	167	154	12	1	0
Komtel Pty Ltd (t & i)	30	23	6	1	0
Kooee Communications Pty Ltd (t & i)	80	79	1	0	0
Lime Australia Pty Ltd (t & i)	33	32	1	0	0
M2 Telecommunications Pty Ltd (t)	139	101	25	12	1
m8 Telecom Pty Ltd (o)	528	480	41	7	0
Macquarie Telecom Group Limited (t)	39	33	4	2	0
Max Telecom Pty Ltd (t & i)	362	275	58	29	0
Mibroadband Pty Ltd (t) (c)	70	69	1	0	0
NC Cable Pty Ltd (t & i)	27	25	2	0	0
Netspace Online Systems Pty Ltd (i)	329	277	44	8	0
Bytecard Pty Ltd (i)	26	20	3	2	1
Ocean Broadband Ltd (i) (c)	43	29	9	5	0
Optus Networks Pty Ltd (t & i)(c)	7934	7495	397	42	0
Optus Broadband Pty Ltd (i)	2840	2727	107	6	0
Optus Mobile Pty Ltd (t) (c)	6882	6481	365	36	0
Hutchison Telecoms (Aust) Pty Ltd (t) (c)	262	248	10	4	0
Pacific Internet Australia Pty Ltd (i)	50	48	2	0	0
People Telecommunications Ltd (t & i)	1312	1059	175	73	5
Primus Telecommunications Pty Ltd (t & i)(c)	2256	2109	131	16	0
Prime Telecoms Pty Ltd (t)	149	124	18	6	1
Red Media Solutions Pty Ltd (t & i)	138	121	15	2	0
Regional Internet Australia Pty Ltd (i) (c)	72	69	3	0	0
CommodiTel (Australia) Pty Ltd (t)	32	32	0	0	0
Tel.Pacific Pty Ltd (i)	92	92	0	0	0
RSL COM Business Communications Pty Ltd (t & i)	27	22	3	2	0
SIMplus Mobile Pty Limited (t)	810	722	80	8	0
Saunders Properties Pty Ltd (i)	104	93	11	0	0
Southern Cross Telco Pty Ltd (t)	67	61	4	2	0
Soul Pattinson Telecommunications Pty Ltd (o) (c)	168	156	9	3	0
Southern Phone Company Ltd (t)	167	158	8	1	0
Telco Blue Pty Ltd (t)	62	58	4	0	0
Technical Aid to the Disabled Inc (i)	27	25	2	0	0
Telstra Corporation (t) (c)	24553	22742	1591	185	35
Telstra Big Pond (i)	7263	6730	507	26	0
Telkom Pty Ltd (t)	72	58	11	3	0
TPG Internet Pty Ltd (i)	969	878	78	13	0
TransACT Capital Communications Pty Ltd (t & i)(c)	230	225	4	1	0
Your Telecom Pty Limited (t)	138	120	16	2	0
Unwired Australia Pty Ltd (t & i)(c)	66	59	6	1	0
Veridas Communications Pty Ltd (i) (c)	319	317	1	1	0
Reward Mobile Pty Limited (t)	61	58	3	0	0
Virgin Mobile (Australia) Pty Ltd (t)	657	608	49	0	0
Vodafone Australia Limited (t) (c)	3439	3317	114	5	3
Web Ace (i)	42	31	7	4	0
Westnet Pty Ltd (t & i)(c)	258	238	18	2	0
Wild Internet & Telecom Pty Ltd (t & i) (c)	436	367	52	17	0
World Tel (Aust) Pty Ltd (t)	130	109	17	4	0

## Mobile Premium Services Industry Scheme Complaints by Level (non-standardised)

1 December 2006 - 30 June 2007 (Includes members that received 25 or more Mobile Premium Service Industry scheme complaints in 2006/07)

Member Name	Total number of complaints	Level 1	Level 2	Level 3	Level 4
AAPT Ltd	130	130	0	0	0
Soul Communications Pty Ltd	127	121	6	0	0
Digiplus Pty Ltd	33	28	5	0	0
Hutchison 3G Australia Pty Ltd	855	825	27	3	0
m8 Telecom Pty Ltd	29	25	4	0	0
Optus Mobile Pty Ltd	2096	2029	63	3	1
SIMplus Mobile Pty Limited	59	53	6	0	0
Telstra Corporation	2340	2312	28	0	0
Virgin Mobile (Australia) Pty Ltd	260	251	9	0	0
Vodafone Australia Limited	954	937	17	0	0

## Mobile Premium Services Industry Scheme Complaints by Issue (non-standardised)

1 December 2006 - June 2007 (Includes members that received 25 or more complaints in 2006/07)

		MPSI Scheme									Total MPSI
		Accesso Content	Complaint Handling	Content Classification	Credit Management	Disputed Admin Charges	Disputed Usage Charges	Information Advertisement	Refund / Credit	Other	
AAPT Ltd	175	0	20	0	1	0	136	5	6	7	175
Soul Communications Pty Ltd	209	4	41	0	2	0	147	5	7	3	209
Digiplus Pty Ltd	47	0	10	0	0	0	34	0	2	1	47
Hutchison 3G Australia Pty Ltd	1249	8	242	0	27	3	878	55	18	18	1249
m8 Telecom Pty Ltd	50	0	10	0	1	0	33	3	3	0	50
Optus Mobile Pty Ltd	2980	16	491	0	32	6	2207	102	94	32	2980
SIMplus Mobile Pty Limited	82	0	16	0	0	0	56	6	3	1	82
Telstra Corporation	3327	7	566	0	11	2	2503	117	74	47	3327
Virgin Mobile (Australia) Pty Ltd	375	6	58	0	2	2	272	22	12	1	375
Vodafone Australia Limited	1313	5	172	0	15	3	1002	56	45	15	1313



# Glossary

## 3G mobile networks

Designed to provide both voice and data services to end-users, 3G mobile networks differ from **GSM** and **CDMA** networks operating in Australia in that they provide higher bandwidth data services, allowing customers access to a new range of content and applications.

These 3G networks can provide access to data and the internet through:

- a mobile handset
- a mobile handset functioning as a modem for a laptop or personal computer (plugged in to the laptop or PC)
- a data card that is inserted into a laptop or PC.

See also **Next G**.

## ACCC

Australian Competition and Consumer Commission. Commonwealth regulatory authority with responsibilities under the *Trade Practices Act 1974* (Cwlth), including responsibility for regulation of competition in the communications industry.

## ACMA

Australian Communications and Media Authority. The authority responsible for the regulation of broadcasting, radiocommunications, telecommunications and online content ([www.acma.gov.au](http://www.acma.gov.au)).

## alternative dispute resolution (ADR)

Any means of settling disputes outside of the courtroom. The TIO is an ADR body.

## ADSL

Asymmetric Digital Subscriber Line. A type of xDSL service, ADSL is technology that allows for internet and voice to be used simultaneously via an ordinary phone line (a copper pair).

## ADSL2

ADSL2 increases data rates available through ADSL as well as extending the reach from the exchange to the subscriber. It is theoretically capable of providing maximum data rates of 12 Mbit/s downstream and 3.5 Mbit/s upstream.

## ADSL2+

Extended-bandwidth ADSL2. The technology provides three times better performance than traditional ADSL technology. ADSL2+ services are theoretically capable of download speeds up to 24 Mbit/s.

## AMTA

Australian Mobile Telecommunications Association. The national body representing the mobile telecommunications industry in Australia.

## Board

The TIO **scheme**, a company limited by guarantee, is accountable to its Board of directors. The Board has corporate governance responsibilities, including risk management, financial management of the scheme, strategic affairs, budgeting and ensuring compliance with the TIO's **Memorandum and Articles of Association** and its **Constitution**.

## broadband

A term encompassing high-speed connections such as cable, **ADSL** and satellite. For broadband services, internet access is not time-based as it is an "always on" connection, the exception being the uplink for satellite.

## carrier

An organisation that holds a carrier licence as defined by the *Telecommunications Act 1997* (Cwth). In very general terms, a carrier provides the physical infrastructure used to supply carriage services to the public.

## CDMA

Code Division Multiple Access. A type of digital mobile service that differs from GSM digital. CDMA replaced the analogue service.

## churn

The process of transferring customer accounts between service providers.

## CND

Calling number display. A service that allows a caller's number to be viewed by the person receiving the call.

## codes

Performance standards set by the Communications Alliance (formerly ACIF) and the telecommunications industry. While compliance with codes is voluntary, once a company is a signatory to a code it is bound by the standards set in that code. ACMA has the power to direct a provider to comply with a registered code even if the company is not a signatory to the code. The TIO gathers data on code compliance for the Communications Alliance and **ACMA**. Codes are listed at <http://commsalliance.com.au/documents/codes>

## complaint

An expression (to the TIO) of dissatisfaction or grievance with a telecommunications service or product.

## complaint levels

A system for classifying **complaints** (to the TIO) based on complexity or severity. Level 1 complaints are the simplest, Levels 3 and 4 the most complex.

## Constitution

The TIO Constitution outlines the roles, responsibilities and powers of the Board, Council and members and the Ombudsman. The Constitution may be changed with the approval of the TIO Council and Board after consultation with the federal ministers responsible for communications and consumer affairs.

## Council

The TIO Council is comprised of an independent chairman and an equal number of representatives from TIO members and consumer interest groups. Council provides advice to the Ombudsman on policy and procedural matters and ensures that **complaint** handling procedures are effective.

### Customer Service Guarantee (CSG)

A set of performance requirements placed by **ACMA** on providers of the standard telephone service. The CSG sets time limits and other standards for rectification of faults, connections and appointments. It entitles customers to a set scale of compensation payments if the standards are not met.

### CSP

Carriage service provider. A person supplying or proposing to supply certain carriage services, including a commercial entity acquiring telecommunications capacity or services from a carrier for resale to a third party. Internet and pay TV service providers are CSPs as defined by the *Telecommunications Act 1997* (Cwlth).

### Department of Communications Information Technology and the Arts (DCITA)

DCITA provides strategic advice to the Federal Government on the development of policies and programs for enhancing Australia's cultural, communications and information technology sectors and to ensure the efficient and effective implementation of department programs ([www.dcita.gov.au](http://www.dcita.gov.au)).

### determination/direction

Where a complaint to the TIO cannot be conciliated so that a fair and reasonable outcome is achieved, the TIO may make a "determination" or give a "direction". Decisions involving amounts up to \$10,000 are legally binding on members. Where the amount involved is greater than \$10,000, the TIO can issue a "recommendation" up to a maximum of \$50,000.

### Department of Industry Science and Tourism benchmarks

In 1997 the Department of Industry Science and Tourism produced benchmarks for industry-based customer dispute resolution schemes. These benchmarks were developed in consultation with industry dispute resolution schemes, consumer organisations, government and regulators. The purpose of the benchmarks was to guide industry in developing and improving industry **ADR** schemes. They were developed to apply primarily to nationally based schemes set up under the auspices of an industry. Most industry ADR schemes operate in accordance with the Benchmarks for Industry-Based Customer Dispute Resolution Schemes. This benchmark sets out key ADR practices within the principles of accessibility, independence, fairness, accountability, efficiency and effectiveness.

### DSLAM

Digital subscriber line access multiplexer. A DSLAM is a piece of infrastructure at the exchange that allows for ADSL and a standard phone service to be provided on the same line.

### dumping

The process by which, as a result of clicking on a link or downloading certain software from a website, an internet user's modem is disconnected from the local ISP without their knowledge and directly connected to an international or premium-rate number.

### enquiry officer

TIO staff member who handles Level 1 **complaints**, both written and oral.

### GSM

Global system for mobiles. A digital mobile phone system.

### investigation officer

TIO staff member who handles written and oral enquires and Level 1 **complaints** in addition to investigating and resolving higher level complaints.

### ISP

Internet service provider. A company that provides internet access services to the public. All ISPs are required to be members of the TIO. ISPs represent by far the largest group of TIO members.

### issue

The matter about which a complainant has contacted the TIO. A single **complaint** may involve several issues. While the TIO charges its members by number of complaints, it reports on the basis of number of issues raised. The TIO groups similar issues into categories such as billing, faults and privacy.

### member

A telecommunications service provider that is a member of the TIO **scheme**. The *Telecommunications Act 1997* (Cwlth) requires all carriers and eligible carriage service providers to be members of the TIO.

### Memorandum and Articles of Association

Document outlining the rules and principles governing the TIO and its members. It is broader and more comprehensive than the **Constitution**, and covers areas such as administration and funding. This document may be amended with the approval of two-thirds of TIO members in attendance at an annual general meeting.

### MNP

Mobile number portability. Introduced in Australia on 25 September 2001, MNP allows mobile customers to keep their existing mobile telephone number when they change service providers.

### Next G

Telstra operates two separate **3G** mobile networks: the network it owns jointly with Hutchison and its Next G network. Telstra launched its Next G network in October 2006. The network initially provided coverage to 98 per cent of the Australian population, and Telstra claims that coverage now encompasses 1.9 million square kilometres, reaching 98.8 per cent of the population. In April 2007, Telstra claimed that its Next G network was capable of providing network speeds of up to 14.4 Mbit/s in the downlink and 1.9 Mbit/s in the uplink. Telstra is not currently offering wholesale services to other **CSPs** over the Next G network.

**pair gain**

Digital technology that allows a single phone line to be split into two or more lines at the exchange. Also known as “RIM” technology.

**porting**

The process by which a customer’s telephone number is transferred to another carrier’s network.

**resolution**

The fair and reasonable settlement of a **complaint** between a customer and a provider with the assistance of the TIO.

**roaming (global)**

Using a mobile phone on another network for a short period while still being billed by the original provider. The mobile phone number remains the same while roaming. When you are roaming on another network the temporary mobile phone company will bill your usual mobile phone company for calls you make while roaming on their network.

**scheme (TIO)**

The TIO scheme is a company limited by guarantee and is accountable to its Board of directors.

**SFOA**

Standard Form of Agreement. A document setting out the terms and conditions of the supply of telecommunications goods and/or services where an individual contract has not been agreed between the customer and the **CSP**.

**spam**

Unsolicited marketing e-mail and SMS messages to mobile phones.

**standard telephone service (STS)**

A telephone service providing two-way voice communication for local, long-distance and international calls, commonly provided by landline but in certain circumstances provided by a mobile or satellite service.

**universal service obligation (USO)**

The obligation placed on universal service providers to ensure that **standard telephone services**, payphones and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. No carriage services have been prescribed to date. Telstra is currently the sole universal service provider, but additional universal service providers may be declared in the future. As the universal service provider, Telstra is obliged to have a policy statement and marketing plan approved by **ACMA**. The policy statement and marketing plan outline how Telstra intends to fulfil its obligations as universal service provider, including fulfilling its obligations to people with a disability, people with special needs and eligible priority customers.

## How to make a complaint

Before lodging a complaint with the TIO you should:

- try to solve the problem with your telephone company or Internet service provider
- try to get the name of the person you spoke to at the company
- gather any papers relevant to the complaint, such as contracts, bills or copies of correspondence (please do not send original documents to the TIO).

## The TIO recommends that complainants:

- pay any undisputed portions of bills
- keep copies of any payment transactions relating to the complaint
- be prepared to write to the TIO with details of the complaint.

Achieving a resolution to a complaint may require compromise on one or both sides of the argument. However, a resolution found this way is almost always less expensive and speedier than one found in the courts. Complainants may take their dispute to court if they are not satisfied with the outcome reached by the TIO.

### **Bankers**

Commonwealth Bank of Australia

### **Solicitors**

Corrs Chambers Westgarth

### **Auditors**

RSM Bird Cameron



Telecommunications  
Industry  
Ombudsman

**Telecommunications Industry Ombudsman Limited**

ACN 057 634 787

Telephone	03 8600 8700
Facsimile	03 8600 8797
Freecall™	1800 062 058
Freefax™	1800 630 614
TTY	1800 675 692

Translator & Interpreter Service 131 450

**Website** [www.tio.com.au](http://www.tio.com.au)

**Postal Address** PO Box 276 COLLINS STREET WEST  
Victoria 8007  
Australia

**Street Address** Level 3, 595 Collins Street  
Melbourne Victoria 3000  
Australia

# Financial Report

for the year ended 30 June 2007

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# Directors' Report

Your directors present their report of Telecommunications Industry Ombudsman Ltd (the TIO) for the year ended 30 June 2007.

The TIO is a company limited by guarantee and incorporated in Australia in 1993 under the Corporations Act. The TIO is established to investigate, resolve, make determinations and give directions relating to complaints by residential and small business consumers of telecommunications services.

The principal place of business for the TIO is  
Level 3/595 Collins Street, Melbourne, Victoria.

## Directors

The current composition and membership of the Board up to the date of this report is as follows:

Two (2) directors appointed by Telstra:

- M C Lawrey
- T C Hill

Two (2) directors appointed by Optus:

- M Elsegood, with G R Smith as alternate director.
- M K Davidson

One (1) director appointed by Vodafone:

- J F Rohan (Chairman)

One (1) director appointed by members who are other than Telstra, Optus, Vodafone and who are not internet service providers or internet service intermediaries:

- B Chapman

One (1) director appointed by internet service provider or internet service intermediary members:

- S Dalby

Independent Director:

- J M Harvey

Changes to Board composition are summarised in note 12 to the financial statements. The names of persons who were directors of TIO at any time during the financial year are as follows:

Name of Director	Date of Appointment	Date of Resignation
J Rohan	01 August 2001	Continuing
M Davidson	18 January 2002	Continuing
G Smith	4 March 2002	Continuing
T Hill	30 October 2002	Continuing
J Harvey	7 April 2003	Continuing
M Lawrey	10 October 2003	Continuing
M Elsegood	2 October 2006	Continuing
S Dalby	7 December 2006	Continuing
B Chapman	7 December 2006	Continuing
M Graubner	4 December 2003	(resigned 06/12/2006)
R Doyle	13 December 2003	(resigned 06/12/2006)
A Bedogni	3 March 2005	(resigned 01/09/2006)

## Operating Results

The TIO recorded an operating surplus for the year of \$8,593 (2005-2006, \$13,635). The TIO's total revenue and expenditure has increased in line with the Scheme's complaint load. The results for the year ended 30 June 2007 and previous years are as follows:

Year	Total Revenue	Total Expenditure	Surplus/(Deficit)
1995-96	\$1,945,115	\$1,967,519	\$(22,404)
1996-97	\$2,177,575	\$2,102,623	\$74,952
1997-98	\$2,394,718	\$2,347,817	\$46,901
1998-99	\$3,258,048	\$3,292,788	\$(34,740)
1999-2000	\$3,885,195	\$3,915,990	\$(30,795)
2000-2001	\$5,201,679	\$5,086,519	\$115,160
2001-2002	\$5,537,714	\$5,224,216	\$313,498
2002-2003	\$5,821,007	\$5,811,224	\$9,783
2003-2004	\$6,571,174	\$6,423,765	\$147,409
2004-2005	\$7,477,664	\$7,310,381	\$167,283
2005-2006	\$8,269,134	\$8,255,499	\$13,635
2006-2007	\$10,156,213	\$10,147,620	\$8,593

Due to the surplus, members' funds were increased from \$1,051,648 at the start of the financial year to \$1,060,241 at the end of 2006-2007.

The TIO has been granted an exemption from income tax under Item 2.1 of Section 50-10 of the Income Tax Assessment Act 1997 until 30 June 2009.

## Review of Operations

### Long Term Growth

Complaint numbers have increased indicating a continuation of the underlying trend of increase which was clear before the large fluctuation caused by the demise of One.Tel during 2000 - 2002.

Overall contacts for 1994-95 to 2006-2007 are presented below. Contacts include enquiries and complaints.

Year	Total Contacts	% Increase over previous year
1994-95	17,205	-
1995-96	26,905	56
1996-97	43,715	62
1997-98	52,138	19
1998-99	64,394	24
1999-2000	67,761	5
2000-2001	98,853	45
2001-2002	91,190	-8
2002-2003	72,771	-20
2003-2004	75,904	4
2004-2005	97,798	29
2005-2006	107,601	10
2006-2007	122,721	14

# Directors' Report (continued)

## • Debt Recovery

Bad debts of \$120,031 (GST inclusive) were written-off during the financial year. The provision for bad debts was increased to \$132,165 (GST inclusive) for specific provisions. Debts were settled with a small number of members.

## • Cash Flow

The TIO's bankers, Commonwealth Bank of Australia, have provided the TIO with an overdraft facility of \$150,000. This facility has been maintained to alleviate any temporary cash flow shortages associated with the TIO's quarterly billing cycle. The overdraft was not called on during the year.

## • Performance

The TIO monitors levels of complainant satisfaction and confidence with the service provided by the TIO. Issues identified through the monitoring process are addressed as they arise by the Ombudsman and the Ombudsman's team.

Over the course of the year the service level efficiency standard of answering 80% of calls within 60 seconds was not met in any month and averaged 45.9%. This was due to a significant increase in call numbers throughout the year. Average resolution times were 102 days for Level 2 complaints, 155 days for Level 3 complaints and 188 days for Level 4 complaints (target 90 days).

## • Industry Development

During 2006-2007 the TIO continued to work collaboratively with industry and the community to identify, prevent and/or address systemic problems. The TIO also actively participated in industry forums to assist in achieving this objective, and continued to contribute to the development of Consumer Codes of Practice.

## • Communications

The TIO worked to maintain general access to the Scheme and particularly identified consumers in rural and regional Australia, youth, people with disabilities and small business as targeted demographics.

## • Governance

The Board concentrated on maintaining the financial stability of the TIO throughout the year. It progressed a number of changes to the Constitution, largely in the area of jurisdiction. The Board also provided guidance with regard to relocation of the office to a new location which caters for future expansion of the Scheme.

## • Maintenance of the financial reserve

The Board ensured that the financial reserve continued to accumulate during 2006-2007 to ensure the TIO is protected from an increasing volume of bad debts and insulated from cash flow shortages inherent in the three monthly billing cycle. The total level of the reserve at 30 June 2007 was \$827,775.

## • Fee Increases

The Board increased the price of Level 1 complaints and Enquiries from \$27.50 to \$33, Level 2 complaints from \$220 to \$242, Level 4 complaints from \$1320 to \$1650 and Reviews from \$495 to \$550 (all prices GST inclusive), effective from 1 July 2006. The fees have also been increased for 2007-2008 effective from 1 July 2007.

## • Membership

The *Telecommunications Act 1997* requires all carriers and eligible carriage service providers to be members of the TIO and comply with the Constitution and Memorandum and Articles of Association of the Scheme. Eligible carriage service providers are those which supply:

- a standard telephone service where some of the customers are residential or small business customers; or
- a public mobile telecommunications service; or
- a carriage service which enables end users to access the Internet.

A carriage service intermediary which arranges the supply of the services referred to above qualifies as an eligible carriage service provider.

These requirements are incorporated in the *Telecommunications (Consumer Protection and Services Standard) Act 1999*.

The total number of members increased from 1170 at 30 June 2006 to 1237 at 30 June 2007. 171 new members joined the scheme and 104 members departed the scheme.

## • Staffing

As at 30 June 2007, the TIO employed 109 staff, with 22 of these being part-time employees (as at 30 June 2006, the TIO employed 93 staff, with 15 of these being part-time employees).

## Principal Activities

During the year, the principal continuing activity of the TIO was the investigation and resolution of telecommunications complaints from small businesses and residential consumers. There were no significant changes in the nature of the activities during the year.

## Dividends

Under the terms of its Memorandum and Articles of Association, the TIO is not permitted to pay dividends to members.

## Significant Changes in the State of Affairs

There have been no significant changes in the state of affairs of the company in the year ended 30 June 2007.

## Matters Subsequent to the End of the Financial Year

### • Fees

The following *funding principles* will continue to apply:

- a) no provider is charged a fee (including overhead and any special levy) for the first four (4) Level 1 complaints received in any given quarter;
- b) providers will not be individually charged for information-giving exercises (including queries about whether a particular provider is a member of the TIO), or for anonymous complaints. These matters will instead be logged as non-allocated enquiries; and
- c) no provider is charged a fee for the first one (1) Level 2 complaint it receives in any given quarter.

# Directors' Report (continued)

Except for the matters noted above, at the date of this report no matter or circumstance has arisen since 30 June 2007 that has significantly affected or may significantly affect:

- a) the operations of the TIO in future financial years: or
- b) the results of those operations in future financial years: or
- c) the state of affairs of TIO in future financial years.

## Likely Developments and Expected Results of Operations

The TIO has budgeted for an increase in complaint numbers in 2007-2008 based on past trends.

## Environmental Regulations

Apart from statutory provisions of general applicability, the TIO is not subject to any specific environmental regulation.

## Information on Directors

Director	Experience	Responsibility
J F Rohan, B Mech Eng, Grad Dip IE, MBA	John has been Executive Director, Vodafone Pacific, MD of Vodafone Australia Pty Ltd, Vodafone New Zealand Ltd and Vodafone Network Pty Ltd. Previous positions include Executive General Manager of James Hardie Building Services and Technologies, Chief Executive of McConnell Dowell's Building Product Group, Australia and New Zealand and General Manager of Comalco Building Products. John has previously served as Chairman of the TIO Board and as a member of the TIO Council.	Chairman from 1 August 2001
M K Davidson	Director Customer Service, Consumer & Multimedia Division, Optus. Mark has a background in customer service and was formerly National Manager, Customer Service Contact centres with Optus.	Director from 18 January 2002
G R Smith, B Econ / Politics (Hons)	Manager Regulatory Operations, Optus. He has formerly worked with AUSTEL, the Reserve Bank of Australia and the Victorian state government.	Alternate Director from 4 March 2002 for D McCulloch and subsequently for A Bedogni and M Elsegood
T C Hill, AICD	Group Manager, Consumer & Compliance, Regulatory Division, Telstra. Trevor has worked for Telstra in a variety of management and policy roles.	Director from 30 October 2002
J M Harvey, BCom, MBA, FCA, FAICD	Directorships include: Bayside Health, IOOF Holdings Ltd, Rural Finance Corporation, Royal Flying Doctor Service (Vic), Boom Logistics Ltd, Colonial Foundation Trust, Legal Services Board and Medibank Private Ltd.	Director from 7 April 2003
M C Lawrey	Executive Director Network Services, Telstra. Director Telemanagement Forum (TMF), Chair Operator Committee TMF, Co-Chair Service Network Operations, ITU United Nations.	Director from 10 October 2003
M Elsegood	Manager, Regulatory Compliance and Safeguards, Optus. Michael has extensive experience in the Australian telecommunications industry, having worked with regulators and carriers in a variety of planning, policy and compliance roles.	Director from 2 October 2006
S Dalby	General Manager, Regulatory, iiNet	Director from 7 December 2006
B Chapman	Regulatory Manager - Fraud and Customer Complaints, AAPT Limited	Director from 7 December 2006

## Information on Company Secretary

Company Secretary	Experience	Responsibility
P J Carruthers BA, MBA, MComLaw, MAICD	Phillip has worked in similar roles with VicRoads and CSIRO and previously served as an officer in the Australian Army. Phillip also serves on the boards of Table Tennis Australia and Table Tennis Victoria.	Company Secretary from 5 March 2001

# Directors' Report (continued)

## Meetings of Directors

The numbers of meetings of the company's directors (excluding meetings of committees of directors) held during the year ended 30 June 2006, and the numbers of meetings attended by each director were:

### Full Meetings of Directors

	Number Eligible to Attend	Number Attended
Number of meetings held: 7		
Number of meetings attended by:		
J F Rohan	7	7
M K Davidson	7	4
M C Lawrey	7	4
M R Graubner	7	4
T C Hill	7	7
G R Smith (As Alternate for A Bedogni)	-	-
M Elsegood	5	5
B Chapman	3	2
S Dalby	4	4
R Doyle	4	4
J M Harvey	7	6
J A Bedogni	2	2

## Auditors

RSM Bird Cameron Partners remain as TIO's auditors.

## Auditor Independence

A copy of the auditor independence declaration, as required under Section 307C of the *Corporations Act 2001*, is set out on the following page.

This report is made in accordance with a resolution of the directors.



**J F Rohan**  
Director  
Melbourne  
26 September 2007



**J M Harvey**  
Director

## Directors' Benefits

During the year, director's fees of \$35,023 were paid to Jane Harvey for her term as the independent director.

Except for that noted above, since 30 June 2007, no director of the company has received, or has become entitled to receive, a benefit because of a contract that the director, a firm of which the director is a member or a company in which the director has a substantial financial interest, has made (during the year ended 30 June 2007 or at any other time) with:

- the TIO, or
- a company that the TIO controlled, or a body corporate that was related to the company, when the contract was made or when the director received, or became entitled to receive, the benefit.

## Insurance of Officers

During the financial year, the TIO paid a premium of \$13,211(GST inclusive) to insure certain officers of the company.

The officers of the company covered by the insurance policy included all directors as listed in this report, Council members, the Ombudsman, Deputy Ombudsman and Business Manager/Company Secretary.

The liabilities insured include costs and expenses that may be incurred in defending civil or criminal proceedings that may be brought against the officers in their capacity as officers of the company.

# Auditor's Independence Declaration

## RSM Bird Cameron Partners

Chartered Accountants

Level 8 Rialto South Tower  
525 Collins Street Melbourne VIC 3000  
PO Box 248 Collins Street West VIC 8007  
T +61 3 9286 1800 F +61 3 9286 1999  
www.rsm.com.au

### AUDITOR'S INDEPENDENCE DECLARATION

As lead audit partner for the audit of the financial statements of the Telecommunications Industry Ombudsman Limited for the financial year ended 30 June 2007, I declare that to the best of my knowledge and belief, there have been no contraventions of:

- (i) the auditor independence requirements of the Corporations Act 2001 in relation to the audit; and
- (ii) any applicable code of professional conduct in relation to the audit.



RSM BIRD CAMERON PARTNERS  
Chartered Accountants



R B MIANO  
Partner

26 September 2007  
Melbourne

"Liability is limited by the Accountants'  
Scheme pursuant to the NSW  
Professional Standards Act 1994"

Major Offices in:  
Perth, Sydney, Melbourne,  
Adelaide and Canberra  
ABN 36 965 185 036

RSM Bird Cameron Partners is an  
independent member firm of RSM  
International, an affiliation of independent  
accounting and consulting firms.



# Income Statement

for the year ended 30 June 2007

	Notes	2007 \$	2006 \$
Revenue from continuing operations	2	10,156,213	8,269,134
Total revenue from continuing operations		10,156,213	8,269,134
<b>Expenses</b>			
Bad debts expenses		193,784	(23,712)
Communications and IT costs		437,475	522,766
Consulting fees		272,938	143,383
Depreciation and amortisation expenses	3	182,790	131,984
Employee benefits expense		7,159,007	6,208,318
Legal expenses		88,032	64,497
Loss on write off of leasehold improvements		429,520	-
Marketing expenses		172,555	270,727
Relocation expenses		114,839	-
Rent expense		286,402	405,498
Travel expenses		159,269	174,573
Telephone and faxes		232,594	196,289
Other expenses	3	418,415	161,176
<b>Total expenses</b>		10,147,620	8,255,499
<b>Surplus for the year</b>	11	8,593	13,635

The above Income Statement should be read in conjunction with the accompanying notes.



# Balance Sheet

as at 30 June 2007

	Notes	2007 \$	2006 \$
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	4	2,269,996	2,234,774
Trade and other receivables	5	42,742	18,373
Prepayments		24,479	64,516
Total Current Assets		2,337,217	2,317,663
<b>Non – Current Assets</b>			
Plant and equipment	6	1,465,190	527,707
Total Non – Current Assets		1,465,190	527,707
<b>Total Assets</b>		<b>3,802,407</b>	<b>2,845,370</b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Trade and other payables	7	894,456	905,695
Lease liabilities	14	-	117,087
Unearned lease incentive	8	131,998	30,581
Provisions	9	444,948	394,301
Total Current Liabilities		1,471,402	1,447,664
<b>Non – Current Liabilities</b>			
Borrowings		44,438	-
Lease liabilities	14	-	173,195
Unearned lease incentives	8	1,143,979	81,551
Provisions	9	82,347	91,312
Total Non - Current Liabilities		1,270,764	346,058
<b>Total Liabilities</b>		<b>2,742,166</b>	<b>1,793,722</b>
<b>Net Assets</b>		<b>1,060,241</b>	<b>1,051,648</b>
<b>Members' Funds</b>			
Accumulated Surplus	11	1,060,241	1,051,648
<b>Total Members' Funds</b>		<b>1,060,241</b>	<b>1,051,648</b>

The above Balance Sheet should be read in conjunction with the accompanying notes.

# Statement of Recognised Income and Expenses

for the year ended 30 June 2007

	Notes	2007 \$	2006 \$
Total members funds at the beginning of the financial year		<b>1,051,648</b>	1,038,013
Surplus for the year		<b>8,593</b>	13,635
Total members funds at the end of the financial year	11	<b>1,060,241</b>	1,051,648

The above Statement of Recognised Income and Expense should be read in conjunction with the accompanying notes.

# Cash Flow Statement

for the year ended 30 June 2007

	Notes	2007 \$	2006 \$
<b>Cash Flows from Operating Activities</b>			
Receipts from members		10,013,452	8,194,013
Payments to suppliers and employees		(9,617,334)	(8,022,545)
Borrowing costs		(25,626)	(29,969)
		370,492	141,499
Interest received		118,392	98,668
<b>Net cash inflow from operating activities</b>	17	<b>488,884</b>	240,167
<b>Cash Flows from Investing Activities</b>			
Payments for plant and equipment		(1,549,793)	(41,761)
Proceeds from sale of plant and equipment		-	205,637
<b>Net cash inflow from investing activities</b>		<b>(1,549,793)</b>	163,876
<b>Cash Flows from Financing Activities</b>			
Lease incentive received		1,341,975	-
Repayment of lease liabilities		(245,844)	(87,755)
<b>Net cash outflow from financing activities</b>		<b>1,096,131</b>	(87,755)
<b>Net Increase in Cash Held</b>		<b>35,222</b>	316,288
Cash at the beginning of the financial year		2,234,774	1,918,486
<b>Cash at the End of the Financial Year</b>	4	<b>2,269,996</b>	2,234,774

The above Cash Flow Statement should be read in conjunction with the accompanying notes.

# Notes to the Financial Statements

30 June 2007

## NOTE 1 Summary of Significant Accounting Policies

The principal accounting policies adopted in the preparation of the financial report are set out below. These policies have been consistently applied to all the years presented, unless otherwise stated.

### (a) Basis of Preparation

This general purpose financial report has been prepared in accordance with Australian Accounting Standards, other authoritative pronouncements of the Australian Accounting Standards Board, Urgent Issues Group Interpretations and the *Corporations Act 2001*.

#### *Compliance with IFRSs*

Australian Accounting Standards include Australian equivalents to International Financial Reporting Standards (AIFRSs). Compliance with AIFRSs ensures that the financial statements and notes comply with International Financial Reporting Standards (IFRSs).

#### *Historical Cost Convention*

These financial statements are prepared in accordance with the historical cost convention. Unless otherwise stated, the accounting policies adopted are consistent with those of the previous year.

### (b) Income Tax

The company is exempt from income tax under Item 2.1 of Section 50-10 of the *Income Tax Assessment Act 1997*. The TIO has been notified of its continuing tax-exempt status up to 30 June 2009 by the ATO.

### (c) Plant and Equipment

The cost method of accounting is used for all acquisitions of assets. Cost is determined as the fair value of the assets given up at the date of acquisition plus costs incidental to the acquisition.

### (d) Revenue Recognition

Volume and overhead billing fees are charged to members for complaint resolution services. Invoices are raised at the commencement of each quarter by reconciling actual compliant numbers against estimates for the following quarter. Revenue is recognised monthly based on the level of complaints received.

### (e) Trade Receivables

Amounts due from members are recognised as amounts receivable. Collectibility is reviewed on an ongoing basis. Debts which are known to be uncollectible are written off. A provision for impairment of trade receivables is established when there is objective evidence that TIO will not be able to collect all amounts due according to the original terms of the receivables. Significant financial difficulties of the debtor, probability that the debtor will enter bankruptcy or financial reorganisation, and default or delinquency in payments are considered indicators that the trade receivable is impaired.

### (f) Depreciation of Plant and Equipment

Depreciation is calculated on a straight line basis to write off the net cost of each item of property, plant and equipment over its expected useful life to the company. Estimates of remaining useful lives are made on a regular basis for all assets, with annual reassessments for major items. The expected useful lives are as follows:

Furniture and fittings	7 years;
Leasehold Improvements	7 years; and
Plant and equipment	3 years.

The TIO considered impairment of assets and no adjustment was deemed necessary.

### (g) Leasehold Improvements

The cost of improvements to or on leasehold properties is amortised over the unexpired period of the lease or the estimated useful life of the improvement to the company, whichever is the shorter.

### (h) Leased Non-Current Assets

A distinction is made between finance leases which effectively transfer from the lessor to the lessee substantially all the risks and benefits incidental to ownership of leased non-current assets, and operating leases under which the lessor effectively retains substantially all such risks and benefits.

Finance leases are capitalised. A lease asset and liability is capitalised at the inception of the lease and subsequently valued in the accounts at the lower of the fair value or present value of minimum lease payments. Lease payments are allocated between the principal component of the lease liability and the interest expense.

The leased asset is amortised on a straight line basis over the term of the lease, or where it is likely that the company will obtain ownership of the asset, the life of the asset.

Lease payments are allocated between interest (calculated by applying the interest rate implicit in the lease to the outstanding amount of the liability), rental expense and reduction of the liability. Other operating lease payments are charged to the income statement in the periods in which they are incurred, as this represents the pattern of benefits derived from the leased assets.

### (i) Trade and Other Creditors

These amounts represent liabilities for goods and services provided to the company prior to the end of the financial year and which are unpaid. The amounts are unsecured and are usually paid within 30 days of recognition.

### (j) Amounts Due to Members

Amounts due to members represent funds owing as a result of estimated case numbers determined in the previous quarter being greater than actual case numbers recorded during the final quarter of the reporting period. The resulting adjustment represents amounts owed to members.

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 1 Summary of Significant Accounting Policies (continued)

### (k) Maintenance and Repairs

Maintenance and repair costs are charged as expenses as incurred.

### (l) Employee Benefits

#### (i) Wages, Salaries and Annual Leave

Provision is made for wages, salaries and annual leave estimated at the amounts expected to be paid when the liabilities are settled. Consideration is given to expected future wage and salary levels. Expected future payments are discounted using market yields at the reporting date on national government bonds with terms to maturity and currency that match, as closely as possible, the expected future cash flows.

#### (ii) Long Service Leave

A liability for long service leave is recognised, and is measured as the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given to expected future wage and salary levels, experience of employee departures and periods of service. Expected future payments are discounted using interest rates on national government guaranteed securities with terms to maturity that match, as closely as possible, the estimated future cash outflows.

### (m) Finance Costs

Finance costs are recognised as expenses in the period in which they are incurred, and include finance lease charges.

### (n) Cash and Cash Equivalents

For the purpose of the cash flow statements, cash includes deposits at call which are readily convertible to cash on hand and are subject to an insignificant risk of changes in value, net of any outstanding bank overdrafts.

### (o) Critical Accounting Estimates and Judgements

Estimates and judgements are continually evaluated and are based on historic experience and other factors including expectations of future events that may have a financial impact on the entity and that are believed to be reasonable under the circumstances.

### (p) Segment Information

The principal activity of the company was to investigate, resolve, make determinations relating to and give directions relating to complaints by residential and small business consumers of telecommunications services. All of this activity is carried out within Australia.

### (q) Goods and Services Tax

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of the GST incurred is not recoverable from the Australian Tax Office (ATO). In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Receivables and payables are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the ATO is included as a current asset or liability in the statement of financial position.

Cash flows are included in the statement of cash flows on a gross basis. The GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the ATO are classified as operating cash flows.

### (r) Impairment of Assets

Assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the assets carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Where net cash inflows are derived from a group of assets working together, the recoverable amount is determined on the basis of the relevant group of assets. The decrement in the carrying amount is recognised as an expense in net profit or loss in the reporting period in which the recoverable amount write-down occurs.

The expected net cash flows included in determining recoverable amounts of non-current assets are discounted to their present values.

If a provision for impairment has been recognised, write-offs are made against the provision. If no provision has previously been recognised, write-offs for impairment losses are recognised as expenses in the profit before tax.

### (s) Unearned Lease Incentive

All incentives for entering into an operating lease shall be recognised as an integral part of the net consideration agreed for the use of the leased asset, irrespective of the incentive's nature or form or the timing of payments.

TIO has recognised the aggregate benefit of incentives as a reduction

of rental expense over the lease term, on a straight-line basis, representative of the pattern of the benefit from the use of the leased asset.

The lease incentive has been recognised as unearned revenue and amortised over the term of the lease, being 10 years.

### (t) New Accounting Standards and Interpretations

Certain new accounting standards and interpretations have been published that are not mandatory for 30 June 2007 reporting period. These new accounting standards and interpretations do not have a material impact on the financial statements of TIO.

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 2 Revenue

	2007 \$	2006 \$
<b>Revenue from Continuing Operations</b>		
Volume and overhead billing fees	10,037,821	8,170,466
<b>Other Revenue</b>		
Proceeds from sale of property, plant and equipment	-	-
Interest received	118,392	98,668
<b>Total Revenue</b>	<b>10,156,213</b>	<b>8,269,134</b>

## NOTE 3 Expenses

The surplus from operating activities includes the following net gains and expenses:

<b>Write Off</b>		
Loss on write off of leasehold improvements (Refer to notes 6 and 8 for further details.)	429,520	-
<b>Expenses</b>		
Depreciation		
Plant and equipment	32,554	35,006
Furniture, fittings and leasehold improvements	122,776	42,143
	<b>155,330</b>	<b>77,149</b>
Amortisation		
Leasehold improvements under finance lease	27,460	54,835
	<b>27,460</b>	<b>54,835</b>
<b>Total Depreciation and Amortisation</b>	<b>182,790</b>	<b>131,984</b>
Other expenses subject to specific disclosure		
Finance costs		
Finance charges on finance leases/loan liability	25,626	29,969
Other charges against assets		
Bad and doubtful debts - trade debtors	193,784	(23,713)
Other provisions		
Employee entitlements	41,684	144,328
Rental related to operating leases		
Lease payments – Rent, Communications, IT and Other	679,652	544,840



# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 4 Cash and Cash Equivalents

	2007 \$	2006 \$
Cash at bank and on hand	86,737	287,092
Deposits at call	2,183,259	1,947,682
	<b>2,269,996</b>	<b>2,234,774</b>

### Deposits at Call

The deposits are bearing floating interest rates between 4.85% and 5.10% (2006: 4.75% and 5.10%).  
Deposits at call include a cash reserve of \$827,775.

## NOTE 5 Trade and Other Receivables

Trade receivables – amounts due from members	151,193	42,951
Less: Provision for impairment of receivables (bad debts)	(120,150)	(35,484)
Interest Receivable	11,699	10,906
	<b>42,742</b>	<b>18,373</b>

## NOTE 6 Plant and Equipment

### Plant and equipment

Plant and equipment – at cost	133,401	166,089
Less: Accumulated depreciation	(114,997)	(115,701)
	<b>18,404</b>	<b>50,388</b>
Total plant and equipment	<b>18,404</b>	<b>50,388</b>

### Furniture and fittings

Furniture and fittings – at cost	1,569,599	768,832
Less: Accumulated depreciation	(122,813)	(738,385)
	<b>1,446,786</b>	<b>30,447</b>
Leasehold improvements – at cost	-	192,099
Less: Accumulated depreciation	-	(48,186)
	-	<b>143,913</b>
Leasehold improvements under finance lease – at cost	-	386,159
Less: Accumulated amortisation	-	(83,200)
	-	<b>302,959</b>
Total Furniture and fittings	<b>1,446,786</b>	<b>477,319</b>
Total Plant and Equipment	<b>1,465,190</b>	<b>527,707</b>

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 6 Plant and Equipment (continued)

### Reconciliations

Reconciliations of the carrying amounts of each class of property, plant and equipment at the beginning and end of the current financial year are set out below:

	Plant & Equipment \$	Furniture & fittings \$	Leasehold improvements \$	Leasehold improvements under finance lease \$	Total \$
<b>2007</b>					
Carrying amount at 1 July 2006	50,388	30,447	143,913	302,959	527,707
Acquisitions	677	1,549,116	-	-	1,549,793
Net book amount of disposals	(107)	(24,390)	(130,274)	(274,749)	(429,520)
Net book amount of transfers	-	750	-	(750)	-
Depreciation /amortisation	(32,554)	(109,137)	(13,639)	(27,460)	(182,790)
Carrying amount at 30 June 2007	18,404	1,446,786	-	-	1,465,190

	Plant & Equipment \$	Furniture & fittings \$	Leasehold improvements \$	Leasehold improvements under finance lease \$	Total \$
<b>2006</b>					
Carrying amount at 1 July 2005	76,213	37,633	347,060	157,024	617,930
Acquisitions	9,181	8,663	23,917	-	41,761
Sale & Leaseback	-	-	(205,637)	205,637	-
Net book amount of disposals	-	-	-	-	-
Depreciation/ amortisation transferred	-	-	4,867	(4,867)	-
Depreciation /amortisation	(35,006)	(15,849)	(26,294)	(54,835)	(131,984)
Carrying amount at 30 June 2006	50,388	30,447	143,913	302,959	527,707

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 7 Current Liabilities – Trade Creditors and Other Payables

	2007 \$	2006 \$
Amounts due to members	162,808	184,206
Trade creditors	124,941	207,074
Other creditors	606,707	514,415
	894,456	905,695

### Financing Arrangements

The company has an overdraft facility of \$150,000 which may be drawn at any time and terminated by the bank without notice. This facility is unused at balance date. The interest rate is 12.30%.

The overdraft facility is secured by a charge over the assets of the company.

## NOTE 8 Unearned Lease Incentives

### Current

Unearned lease incentives	131,998	30,581
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### Non-Current

Unearned lease incentives	1,143,979	81,551
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## NOTE 9 Provisions

### Current Liability

Provision for Annual Leave	323,536	248,373
Provision for Long Service Leave	121,412	145,928
	444,948	394,301

### Non-Current Liability

Provision for Long Service Leave	82,347	91,312
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# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 10 Financial Instruments

### (a) Credit Risk Exposures

The credit risk on financial assets of the company which has been recognised on the statement of financial position, is the carrying amount, net of any provisions for doubtful debts.

### (b) Interest Rate Risk Exposures

Exposures arise predominantly from assets and liabilities bearing variable interest rates as the company intends to hold fixed rate assets and liabilities to maturity.

2007	Notes	Floating interest rate \$	Fixed interest maturing in:		Non-interest bearing \$	Total \$
			1 year or less \$	over 1 to 5 years \$		
Financial assets						
Cash assets	4	2,269,996	-	-	-	2,269,996
Receivables	5	-	-	-	42,742	42,742
		2,269,996	-	-	42,742	2,312,738
Weighted average interest rate		4.97%				
Financial liabilities	14	-	-	-	-	-
Payables and other liabilities	7	-	-	44,438	894,456	938,894
Unearned Lease Incentives	8	-	-	131,998	1,143,979	1,275,977
		-	-	176,436	2,038,435	2,214,871
Average interest rate			7.9%	7.9%		
Net financial assets (liabilities)		2,269,996	-	(176,436)	(1,995,693)	97,867

2006	Notes	Floating interest rate \$	Fixed interest maturing in:		Non-interest bearing \$	Total \$
			1 year or less \$	over 1 to 5 years \$		
Financial assets						
Cash assets	4	2,234,774	-	-	-	2,234,774
Receivables	5	-	-	-	18,373	18,373
		2,234,774	-	-	18,373	2,253,147
Weighted average interest rate		4.96%				
Financial liabilities	9,14	-	117,087	173,195	-	290,282
Payables and other liabilities	7	-	-	-	905,695	905,695
Unearned Lease Incentives	8	-	-	30,581	81,551	112,132
		-	117,087	203,776	987,246	1,308,109
Average interest rate			7.9%	7.9%		
Net financial assets (liabilities)		2,234,774	(117,087)	(203,776)	(968,873)	945,038

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 10 Financial Instruments (continued)

### (b) Interest Rate Risk Exposures (continued)

Reconciliation of Net Financial Assets to Net Assets

	Notes	2007 \$	2006 \$
Net financial assets as above		97,867	945,038
Non financial assets and liabilities:			
Property, plant and equipment	6	1,465,190	527,707
Prepayments		24,479	64,516
Provisions		(527,295)	(485,613)
Net assets per statement of financial position		1,060,241	1,051,648

The carrying amounts and net fair values of financial assets and liabilities at balance date are:

	Carrying amount \$	2007 Net Fair Value \$	Carrying amount \$	2006 Net Fair Value \$
<b>Recognised financial instruments</b>				
<b>Financial assets</b>				
Cash Assets	86,737	86,737	287,092	287,092
Deposits	2,183,259	2,183,259	1,947,682	1,947,682
Receivables	42,742	42,742	18,373	18,373
	2,312,738	2,312,738	2,253,147	2,253,147
<b>Financial liabilities</b>				
Payables	894,456	894,456	905,695	905,695
Lease Liabilities	-	-	290,282	290,282
Loan liabilities	44,438	44,438	-	-
Non-traded financial liabilities	938,894	938,894	1,195,977	1,195,977

None of the classes of financial assets and liabilities are readily traded on organised markets in standardised form.

Net fair value is exclusive of costs which would be incurred on realisation of an asset and inclusive of costs which would be incurred on settlement of a liability.

## NOTE 11 Accumulated Surplus

	2007 \$	2006 \$
Accumulated Surplus at the beginning of the financial year	1,051,648	1,038,013
Surplus for the year	8,593	13,635
Accumulated Surplus at the end of the financial year	1,060,241	1,051,648

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 12 Key Management Personnel Disclosure

### (a) Directors

The following persons were directors of TIO during the financial year:

Name of Director	Date of Appointment	Date of Resignation
J Rohan	01 August 2001	Continuing
J Harvey	7 April 2003	Continuing
M Davidson	18 January 2002	Continuing
G Smith	4 March 2002	Continuing
T Hill	30 October 2002	Continuing
M Graubner	4 December 2003	(Resigned 06/12/06)
R Doyle	13 December 2003	(Resigned 06/12/06)
A Bedogni	3 March 2005	(Resigned 01/09/2006)
M Lawrey	10 October 2003	Continuing
M Elsegood	2 October 2006	Continuing
S Dalby	7 December 2006	Continuing
B Chapman	7 December 2006	Continuing

### (b) Other Key Management Personnel

The following persons also had authority and responsibility for planning, directing and controlling the activities of TIO, directly or indirectly, during the financial year:

Name	Position	Employer
D O'Donnell (Commenced 29 May 07) Limited	Ombudsman	Telecommunication Industry Ombudsman
J Pinnock (Ceased 28 May 07)	Ombudsman	Telecommunication Industry Ombudsman Limited
S Cleary	Deputy Ombudsman	Telecommunication Industry Ombudsman Limited
P Carruthers	Company Secretary/ Business Manager	Telecommunication Industry Ombudsman Limited
T Staley	Chair of Council	Telecommunication Industry Ombudsman Limited
C Newell	Member of Council	Telecommunication Industry Ombudsman Limited
P Marsh	Member of Council	Telecommunication Industry Ombudsman Limited
W Warburton	Member of Council	Telecommunication Industry Ombudsman Limited
E Beale (ceased 2 Apr 07)	Member of Council	Telecommunication Industry Ombudsman Limited
M Pincott	Member of Council	Telecommunication Industry Ombudsman Limited
N Mounsher	Member of Council	Telecommunication Industry Ombudsman Limited
R Ziino	Member of Council	Telecommunication Industry Ombudsman Limited
T Bean	Member of Council	Telecommunication Industry Ombudsman Limited
R Wheeler	Member of Council	Telecommunication Industry Ombudsman Limited
V Lee (commenced 21 Feb 07, ceased 24 May 07)	Member of Council	Telecommunication Industry Ombudsman Limited
M Russell (commenced 25 May 07)	Member of Council	Telecommunication Industry Ombudsman Limited
R Young (ceased 20 Feb 07)	Member of Council	Telecommunication Industry Ombudsman Limited

### (c) Key Management Personnel Compensation

	2007 \$	2006 \$
Short term employee benefits	787,963	748,479



# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 13 Remuneration of Auditors

	2007 \$	2006 \$
Remuneration for audit of the financial reports of the company	24,000	22,000
Remuneration for other services	6,500	10,163

## NOTE 14 Lease Liabilities

### *Finance Leases*

Commitments in relation to finance leases are payable as follows:

Not later than one year	-	142,713
Later than one year but not later than 5 years	-	186,017
Minimum lease payments	-	328,730
Less: Future finance charges	-	38,448
Total lease liabilities	-	290,282
Representing lease liabilities:		
Current	-	117,087
Non-current	-	173,195
	-	290,282

(The finance lease liability was converted to borrowings during the 2006-2007 financial year due to the relocation of office premises and the subsequent write off of assets previously leased).

## NOTE 15 Commitments for Expenditure

### **Lease Commitments:**

Representing:

Non-cancellable operating leases	6,949,849	1,778,528
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### *Operating Leases*

Commitments for minimum lease payments in relation to non-cancellable operating leases are payable as follows:

Not later than one year	803,413	568,988
Later than one year but not later than 5 years	2,787,828	1,209,540
Later than 5 years	3,358,608	-
Commitments not recognised in the financial statements	6,949,849	1,778,528

(The TIO entered into a 10 year accommodation lease in March 2007).

# Notes to the Financial Statements (continued)

30 June 2007

## NOTE 16 Related Parties Transactions

### Directors

The names of persons who were directors of TIO at any time during the financial year are detailed in note 12.

### Transactions with directors and director related entities

J Rohan is a current TIO director nominated by Vodafone Pacific Pty Ltd. TIO invoiced Vodafone Pty Ltd and other related Vodafone entities for \$393,082 during the year in respect of complaint handling fees. Vodafone entities invoiced the TIO for \$1,744 for the provision of telecommunications services during the reporting period.

Two current directors, M Lawrey and T Hill are employees of Telstra Corporation. TIO invoiced Telstra Corporation and Telstra Big Pond for \$2,909,291 and \$746,717 respectively for complaint handling fees incurred during the year. Telstra Corporation invoiced the TIO for \$40,569 for the provision of telecommunications services during the reporting period.

Two current directors, M Elsegood and M Davidson and one alternate director, G Smith, are employees of Singtel Optus Pty Ltd. One former director, A Bedogni was an employee of Singtel Optus Pty Ltd. TIO invoiced Singtel Optus Pty Ltd and related entities for \$2,112,650. Optus entities invoiced the TIO for \$211,159 for the provision of telecommunications services during the reporting period.

One current director, B Chapman, is an employee of AAPT Ltd. TIO invoiced AAPT Ltd for \$376,525 during the year in respect of complaint handling fees.

One current director, S Dalby, is an employee of iiNet Ltd. TIO invoiced iiNet Ltd and related entities for \$86,753 during the year in respect of complaint handling fees.

All of the above transactions with directors and director related entities were based on normal commercial terms and conditions.

## NOTE 17 Reconciliation of Surplus from Ordinary Activities after Income Tax to Net Cash Inflow from Operating Activities

	2007 \$	2006 \$
Surplus from ordinary activities after income tax	8,593	13,635
Depreciation and amortisation	182,791	131,984
Loss/(gain) on disposal of fixed assets	429,520	-
Lease Incentive amortised	(178,130)	-
Changes in operating assets and liabilities:		
Decrease (increase) in receivables	(24,369)	23,547
Decrease (increase) in other operating assets	40,037	11,246
Increase (decrease) in payables	(11,239)	(84,573)
Increase in other provisions	41,682	144,328
Net cash inflow from operating activities	488,884	240,167

## Note 18 Contingent Liabilities

The TIO has two contingent liabilities:

- During the 2006-2007 financial year, the TIO entered into a contractual agreement with the Sustainable Melbourne Fund who provided the office with a loan amounting to \$37,114. This financed the capital cost cash value of energy efficiency initiatives which will result in a reduced energy bill for the TIO over time. The loan is repayable over four years at an amount of \$2,685 per quarter and is contingent upon the TIO continuing to lease its current premises at level 3, 595 Collins Street.
- During the 2006-2007 financial year, the TIO signed a bank guarantee in favour of Investa Nominees Pty Ltd (the TIO's landlord) for an amount equal to 6 months rent, outgoings, car park licence fees and GST. The amount of the guarantee is \$172,870. In the event where the TIO is unable to meet its financial obligations under its lease for level 3, 595 Collins Street; Investa Nominees Pty Ltd may call on the bank guarantee held by the Commonwealth Bank of Australia.

## Note 19 Events Occurring After Balance Date

There were no material subsequent events.

# Directors' Declaration

In the directors' opinion:

- (a) the financial statements and notes set out on pages 11 to 30 are in accordance with the *Corporations Act 2001*, including:
  - (i) complying with Accounting Standards, the *Corporations Regulations 2001* and other mandatory professional reporting requirements; and
  - (ii) giving a true and fair view of the company's financial position as at 30 June 2007 and of its performance, as represented by the results of their operations, changes in equity and their cash flows, for the financial year ended on that date; and
- (b) there are reasonable grounds to believe that the company will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the directors.



**J F Rohan**  
Director  
Melbourne  
26 September 2007



**J M Harvey**  
Director

# Independent Audit Report

## RSM Bird Cameron Partners

Chartered Accountants

Level 8 Rialto South Tower  
525 Collins Street Melbourne VIC 3000  
PO Box 248 Collins Street West Melbourne VIC 8007  
T +61 3 9286 1800 F +61 3 9286 1999  
www.rsm.com.au

### INDEPENDENT AUDIT REPORT

To the members of Telecommunication Industry Ombudsman Limited:

#### Report on the Financial Report

We have audited the accompanying financial report of the Telecommunications Industry Ombudsman Limited ("the company"), which comprises the balance sheet as at 30 June 2007, and the income statement, statement of changes in equity and cash flow statement for the year ended on that date, a summary of significant accounting policies, other explanatory notes and the directors' declaration.

#### *Directors' Responsibility for the Financial Report*

The directors of the company are responsible for the preparation and fair presentation of the financial report in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Act 2001. This responsibility includes establishing and maintaining internal control relevant to the preparation and fair presentation of the financial report that is free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances. In Note 1, the directors also state, in accordance with Accounting Standard AASB 101 Presentation of Financial Statements, that compliance with the Australian equivalents to International Financial Reporting Standards ensures that the financial report, comprising the financial statements and notes, complies with International Financial Reporting Standards.

#### *Auditor's Responsibility*

Our responsibility is to express an opinion on the financial report based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial report is free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial report. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial report, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial report in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial report.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

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Major Offices in:  
Perth, Sydney, Melbourne,  
Adelaide and Canberra  
ABN 36 965 185 036

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International, an affiliation of independent  
accounting and consulting firms.



# Independent Audit Report

## INDEPENDENT AUDIT REPORT (CONT.)

### *Independence*

In conducting our audit, we have complied with the independence requirements of the *Corporations Act 2001*.

### *Auditor's Opinion*

In our opinion:

- (a) the financial report of the Telecommunications Industry Ombudsman Limited is in accordance with the *Corporations Act 2001*, including:
  - (i) giving a true and fair view of the company's financial position as at 30 June 2007 and of its performance for the year ended on that date; and
  - (ii) complying with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Corporations Regulations 2001; [and
- (b) the financial report also complies with International Financial Reporting Standards as disclosed in Note 1.



**RSM BIRD CAMERON PARTNERS**  
Chartered Accountants



**R B MIANO**  
Partner

26 September 2007  
Melbourne