

Telecommunications Industry Ombudsman submission to the ACMA's 2018 Review of the International Mobile Roaming Standard

Introduction from the Ombudsman, Judi Jones

I welcome the opportunity for the Telecommunications Industry Ombudsman to contribute to the ACMA's 2018 review of the International Mobile Roaming Standard.

As the independent dispute resolution service for telecommunications complaints, the Telecommunications Industry Ombudsman is in a unique position to provide insights into the experiences of Australians when they travel abroad using international roaming.

While the introduction of the Standard in 2013 (and its later revision in 2016) may have been effective in reducing the number of complaints about international roaming and lowering the financial amounts in dispute, I see a continued need for the safeguards in the Standard.

I support the Standard applying to all providers from 1 January 2019 so consumers are equally protected irrespective of whether they purchase their tablet, mobile or smart phone from a provider who owns and operates mobile network infrastructure. A Standard that applies consistently across the sector will reduce consumer confusion and will assist providers in complying with the Standard. A consistent approach will also assist the Telecommunications Industry Ombudsman when considering the Standard in the resolution of complaints.

My office sees an emerging issue with tablets and I welcome the Review's consideration of whether the Standard may require adjustment to remain effective.

The review presents a timely opportunity to remove legacy references that no longer apply. There is no longer a need for the Standard at clause 10 to confer powers on my office under s114, *Telecommunications Act*. My office already has sufficient powers to consider the Standard when handling complaints under relevant telecommunications consumer protection laws, and our *Constitution and Terms of Reference*. The ACMA, as regulator, monitors and enforces industry compliance with the Standard.

Wherever possible, this submission draws on the Telecommunications Industry Ombudsman's experience in facilitating the resolution of complaints and through its investigation into systemic issues. More information about the *Context for complaints to the Telecommunications Industry Ombudsman* is provided at **Appendix A** and *How to understand the Telecommunications Industry Ombudsman's complaints data* is provided at **Appendix B**.

This submission covers:

1. Complaints to the Telecommunications Industry Ombudsman about international roaming
2. The experience of consumers who complain to our scheme about international roaming

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Part 1: Complaints to the Telecommunications Industry Ombudsman about international roaming

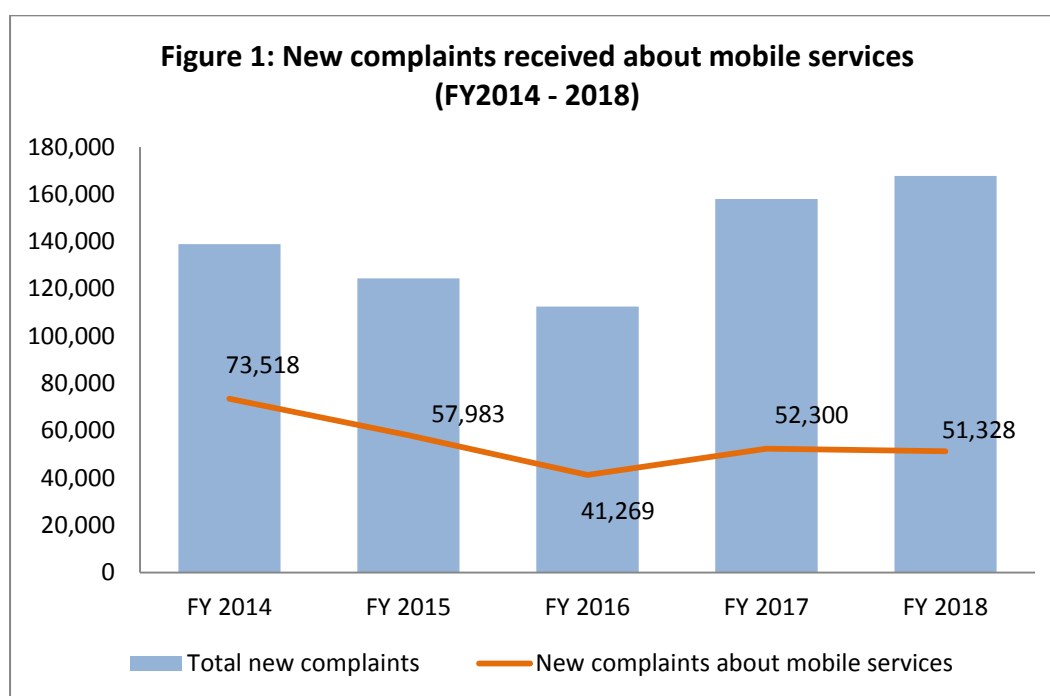
This Part covers:

- New complaints to the Telecommunications Industry Ombudsman about mobile services
- Trends in new complaints about international roaming – financial years 2014 to 2018

1.1 New complaints to the Telecommunications Industry Ombudsman about mobile services

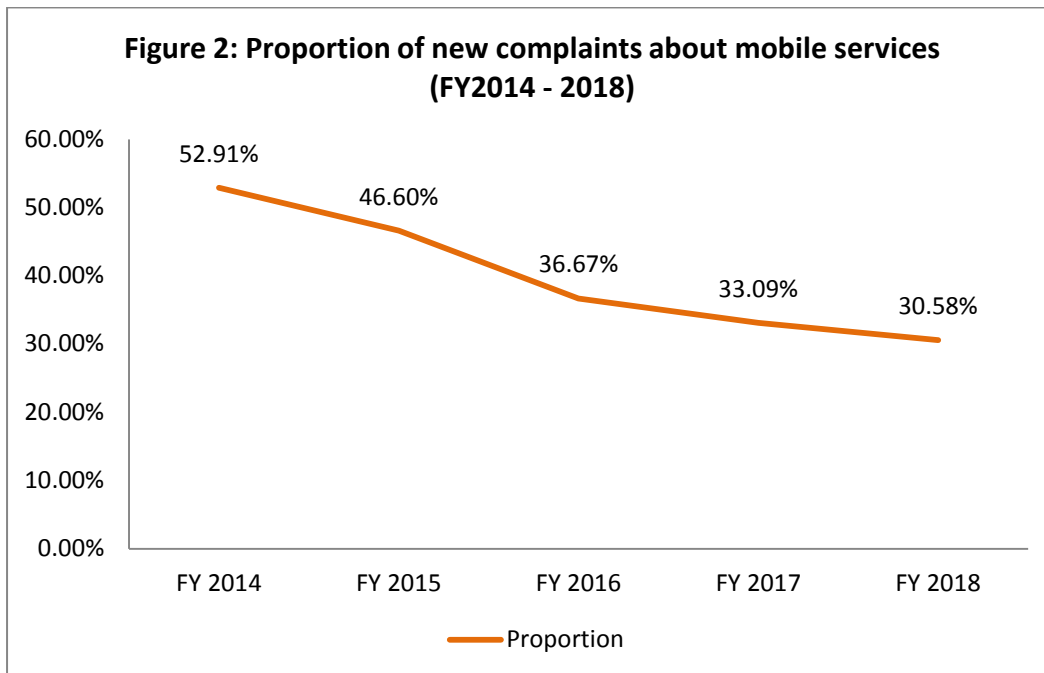
Figure 1 shows over the last five years, a v-shaped trend in the total number of new complaints received by the Telecommunications Industry Ombudsman, with 2016 being a turning point. New complaints received about mobile services continue to represent a significant number of the Telecommunication Industry Ombudsman’s overall caseload. While our overall caseload increased between 2016 and 2018, this increase is not reflected in the proportion of complaints about mobile services.

As **Figure 2** illustrates, the proportion of complaints about mobile services decreased from approximately half in 2014 and 2015 to less than one-third of the overall caseload in 2017 and 2018.



Note: Complaints about mobile services include complaints about mobile premium services.

From 1 July 2017, the Telecommunications Industry Ombudsman introduced a new approach to recording complaints: see **Appendix B**.



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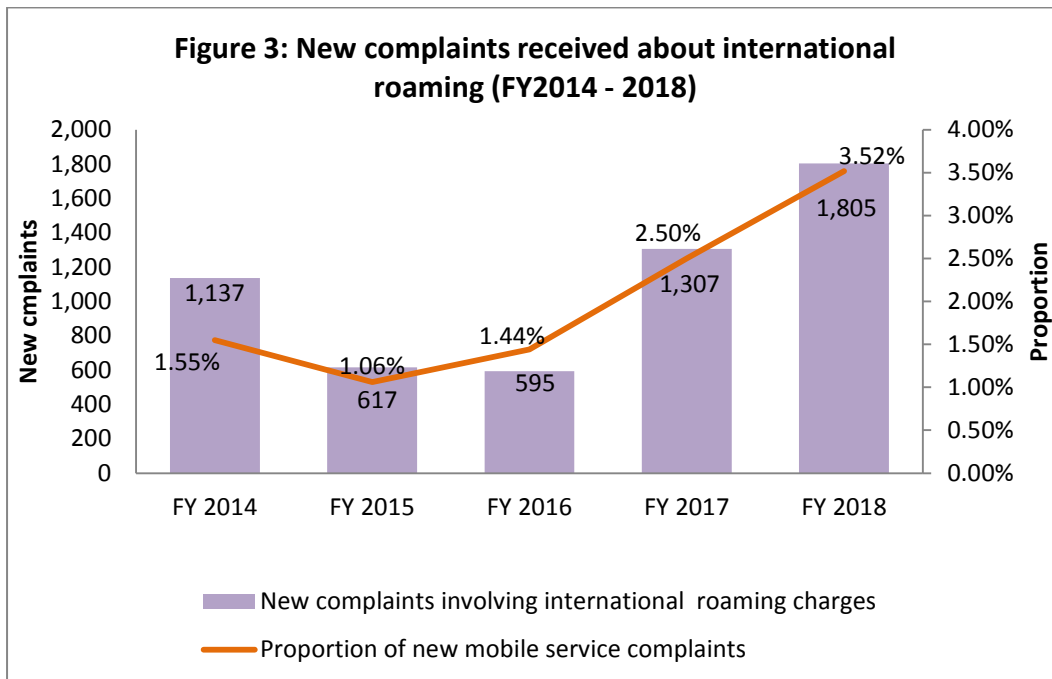
From 1 July 2017, the Telecommunications Industry Ombudsman introduced a new approach to recording complaints: see **Appendix B**.

1.2 Trends in new complaints about international roaming – financial years 2014 to 2018

While the number and proportion of complaints about mobile services has decreased over the past five years (**Figures 1 and 2**), the number and proportion of mobile complaints that relate to international roaming dropped and then increased (**Figure 3**).

Taking into account the total number of new complaints about mobile services each year, complaints about international roaming are a relatively small proportion, ranging from 1.06 to 3.52 per cent of mobile service complaints.

When considered in the context of the development of the *Telecommunications (International Mobile Roaming) Industry Standard 2013 (Standard)*, complaints to the Telecommunications Industry Ombudsman about international mobile roaming decreased after the Standard commenced in 2013, but have increased incrementally since the Standard was revised in 2016.

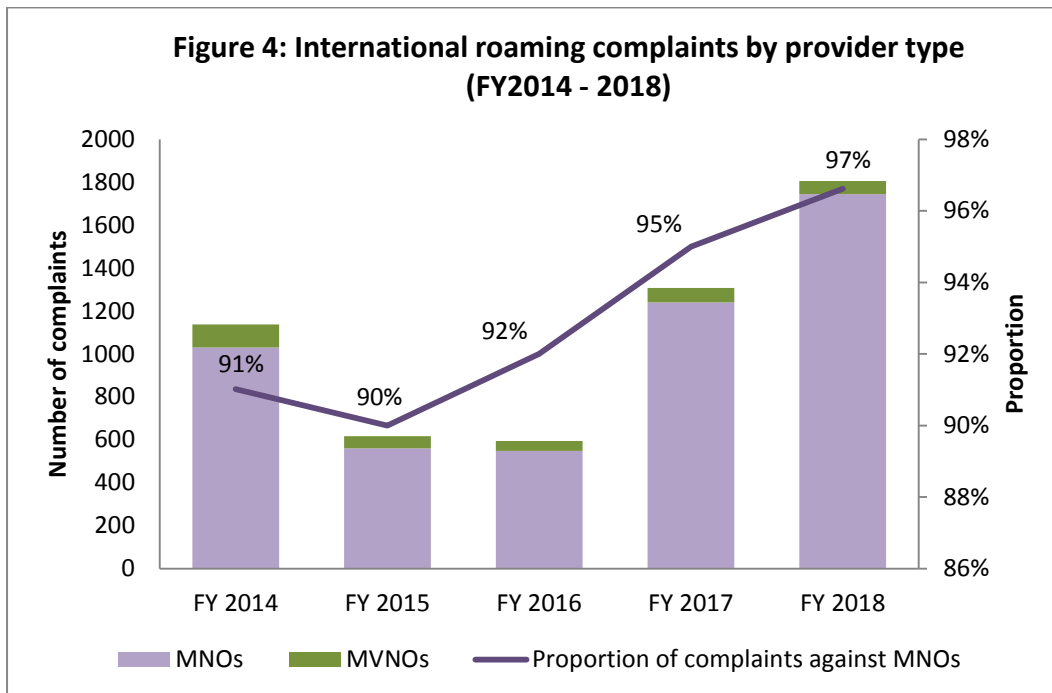


Note: Complaints about mobile services include complaints about mobile premium services.

From 1 July 2017, the Telecommunications Industry Ombudsman introduced a new approach to recording complaints: see **Appendix B**.

When analysed by provider type, complaints received about international roaming tend to be about providers who own and operate their own mobile network infrastructure, otherwise known as Mobile Network Operators (**MNOs**). Current MNOs are Telstra (including Belong), Optus (including Virgin Mobile) and Vodafone.

Figure 4 shows that over the last five years between 90 to 97 per cent of international roaming complaints received by the Telecommunications Industry Ombudsman were about MNOs. The remainder of complaints were about those companies which acquire wholesale end-to-end services from an MNO to on-sell to consumers under their own brand, otherwise known as Mobile Virtual Network Operators (**MVNOs**).



Note: From 1 July 2017, the Telecommunications Industry Ombudsman introduced a new approach to recording complaints: see **Appendix B**.

The higher proportion of complaints about MNOs may be partially attributable to market share.

The ACCC reports MNOs have:¹

- 91% of the consumer market share for mobile phone services in 2016;
- an estimated 87 per cent of the market share for mobile broadband services (SIM-tablets, modems and dongles) in 2017.

¹ ACCC, *Communications Sector Market Study Final Report (April 2018)*, 22 and 24. See: <https://www.accc.gov.au/publications/communications-sector-market-study-final-report>

Part 2: The experience of consumers who complain to our scheme about international roaming

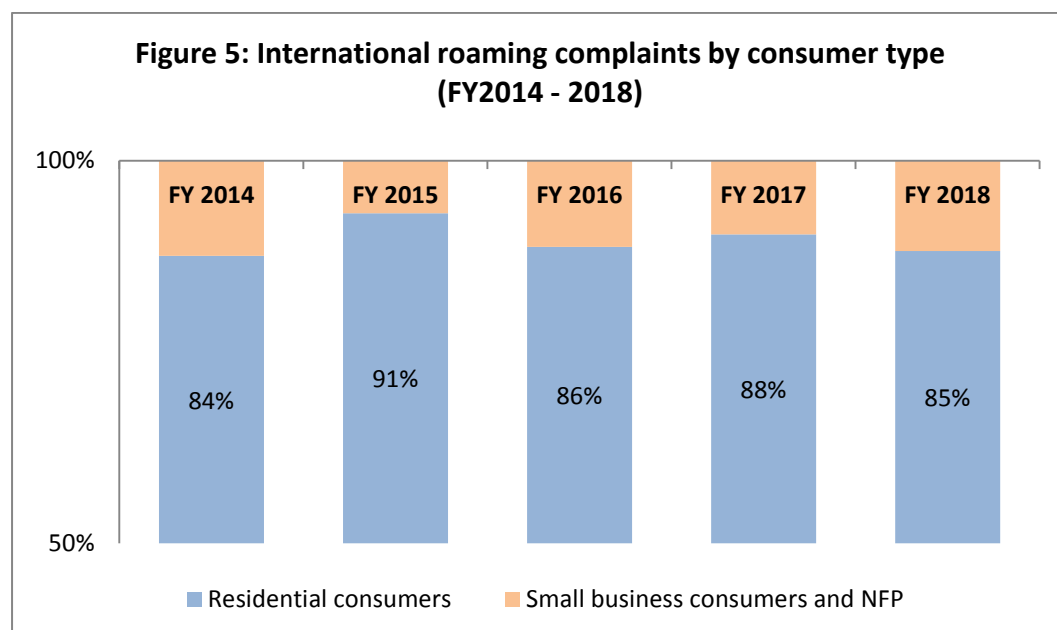
This Part covers:

- Who complains to our scheme
- Disputed amounts associated with international roaming charges
- Factors behind international roaming complaints
- Emerging issues with tablets

2.1 Who complains to our scheme

The type of consumer who complains to our scheme about international roaming charges include residential consumers, small business consumers and Not-For-Profit organisations.

Figure 5 shows the breakdown of complaints by consumer type is broadly consistent with the breakdowns across our overall caseloads for each year.



2.2 Disputed amounts associated with international roaming charges

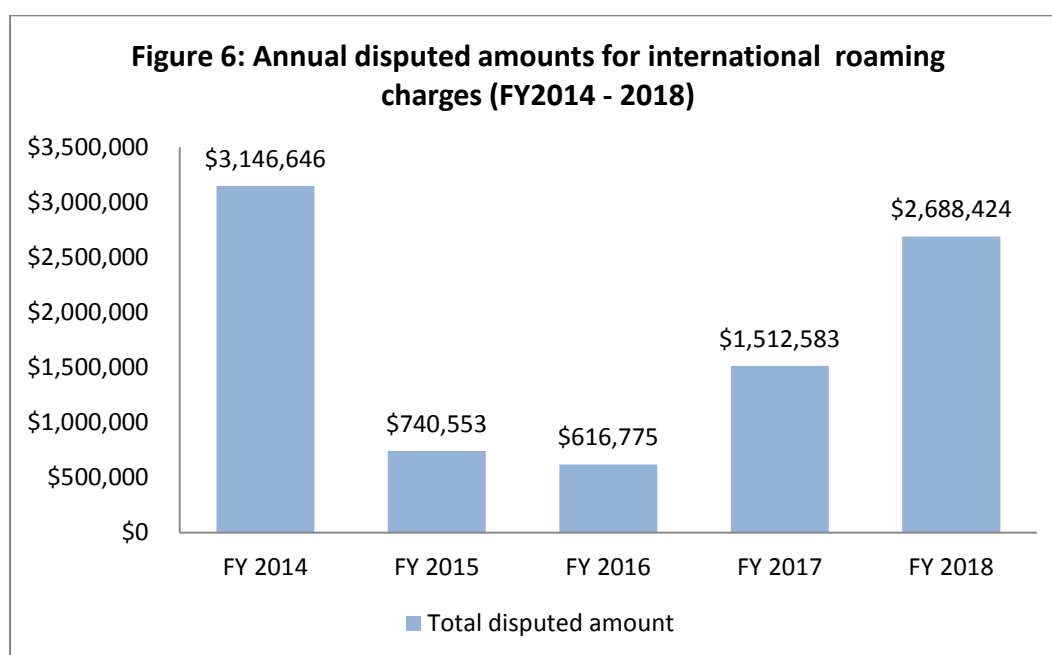
Total amounts in dispute

Over the last five years, consumers who have complained to the Telecommunications Industry Ombudsman have disputed over \$8.7 million in international roaming charges.

When consumers complain about international roaming charges, we capture and record the monetary amount the consumer disputes having to pay to their provider. The disputed amounts captured are not verified by the Telecommunications Industry Ombudsman as the amount the consumer is liable to pay. This is because in the majority of cases, the dispute is settled after we refer the complaint to the provider's escalated dispute resolution team and we are not advised of the terms of settlement.

It is possible the disputed amounts reported to us under-represent the financial size of the problem experienced by consumers across Australia. This is because the Telecommunications Industry Ombudsman does not have visibility of the amounts in dispute when consumers resolve their complaint directly with their provider, without using our service. There may also be disputes that we do not see because the disputed amount falls outside the Ombudsman's jurisdictional limits.²

As **Figure 6** shows, the total amount in dispute dropped during 2015 and 2016, consistent with reduced numbers of complaints about international roaming. While the amounts in dispute appear to be trending upwards in 2017 and 2018, they have not yet reached the same levels as 2014.



Note: The disputed amounts in **Figure 6** are based on a sub-set of international roaming complaints reported in **Figures 3 and 4**. This is because when consumers complain to us about international roaming, they may not always specify an amount in dispute.

² *Telecommunications Industry Ombudsman Terms of Reference* (version published on 25 October 2017), clauses 3.11 and 3.16. See: https://www.tio.com.au/_data/assets/pdf_file/0019/251443/TELECOMMUNICATIONS-INDUSTRY-OMBUDSMAN-TERMS-OF-FINAL-OCTOBER-2017.pdf

Median amounts in dispute

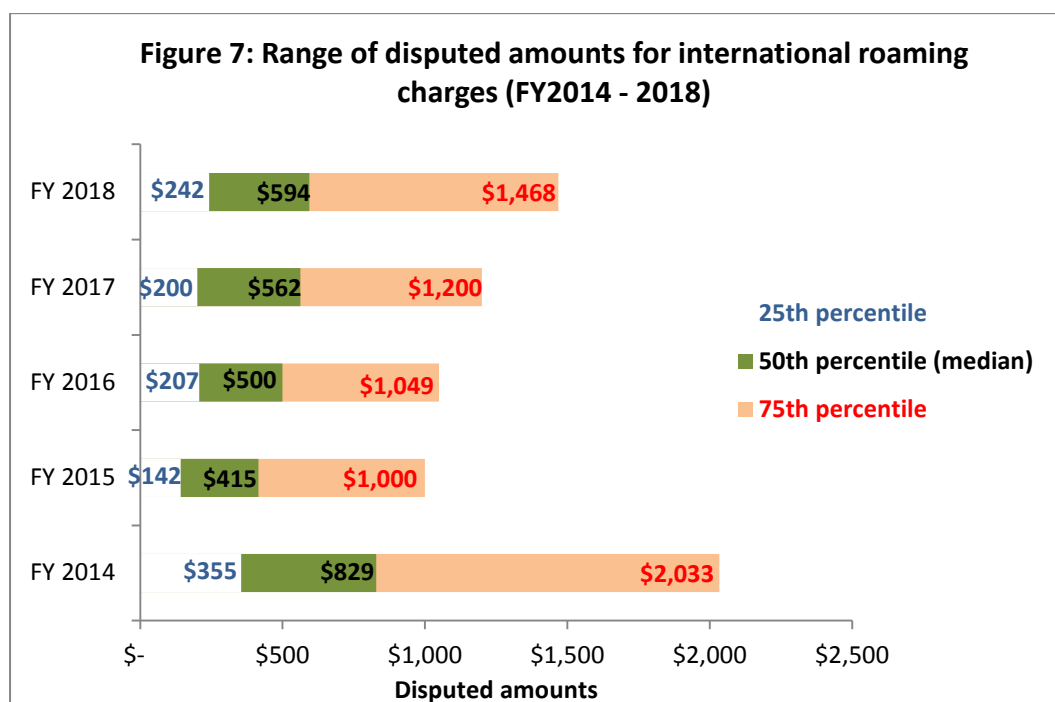
The Standard appears to have been effective in reducing the financial amount customers dispute in relation to international roaming charges. Since the Standard has been in place, the median amounts in dispute for international mobile roaming charges halved from approximately \$1,200 in 2013³ to approximately \$600 in 2018.

When analysed by provider type, the median disputed amount for complaints involving MNOs in 2018 was \$600 (up from \$564 in 2017), compared with \$508 for MVNOs (down from \$514 in 2017). This suggests there is a need for the safeguards in the Standard to apply equally to all consumers regardless of whether they obtain services from an MNO or MVNO. The Telecommunications Industry Ombudsman supports retention of the 1 January 2019 start date in the Standard for MVNOs.⁴

Figure 7 shows the range of disputed amounts over the last five years with reference to the 25th percentile, the median or 50th percentile and the 75th percentile. It is interesting to note that while the median disputed amount halved between 2014 and 2015, since 2015 it has gradually increased.

When considered in the context of the highest disputed amount for a complaint about international roaming charges, consumers continue to report experiencing 'bill shock' for significant monetary amounts.

While under the Terms of Reference the Ombudsman can only award compensation up to \$50,000 and can recommend a payment up to \$100,000,⁵ **Figure 8** shows that in 2014, the Telecommunications Industry Ombudsman received a complaint where the amount in dispute was exceptionally high (\$571,000). The circumstances of this case were that the consumer's mobile phone was stolen while travelling in Europe. The disputed amounts recorded in other years ranged between \$26,000 to \$95,000 and were within the Ombudsman's jurisdictional limits. These amounts suggest there is an ongoing need for consumer protections to safeguard against 'bill shock' for international roaming charges.

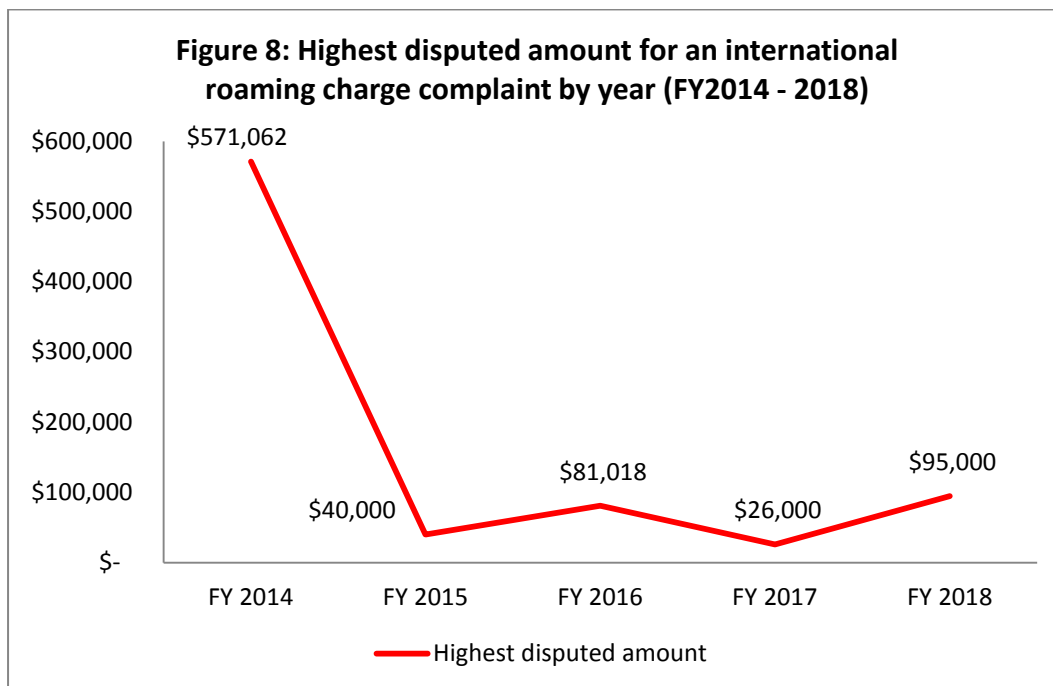


Note: The disputed amounts in **Figure 7** are based on a sub-set of international roaming complaints reported in **Figures 3 and 4**. This is because when consumers complain to us about international roaming, they may not always specify an amount in dispute.

³ Telecommunications Industry Ombudsman, 2013 – 2014 Annual Report, 27. See: https://www.tio.com.au/_data/assets/pdf_file/0005/162662/TIO-2014-Annual-Report-WEB.pdf

⁴ *Telecommunications (International Mobile Roaming) Industry Standard 2013*, clause 9(9)

⁵ As above for note 2



2.3 Factors behind international roaming complaints

When consumers complain to the Telecommunications Industry Ombudsman about international roaming, they report a range of experiences that give rise to the complaint and charges, including:

- The pass or pack did not activate properly, whether due to the provider's customer service team failing to activate the account, acknowledged IT technical faults with the provider, or the mobile app interface for activation not working;
- There are cases where the consumer mistakenly believes or is told by the provider that the country they visited is covered by the pack or pass when it is not. In these cases the consumer finds themselves subject to higher charge rates once overseas;
- In other cases, the pass or pack was activated, but the consumer does not accept the billed charges, whether relating to texts, calls or data, because the charges are much higher than what the consumer believes to be their actual usage or because they report they could not actively manage their usage because they never received any warnings or usage alerts.

The majority of these cases are resolved after referral to the provider's escalated complaints handling team. Providers can offer refunds, waivers, or credit of the charges billed to settle the complaint.

When we refer these cases to providers, we remind them:

- of their obligations to halt credit management action on disputed amounts, as required by the *Telecommunications Consumer Protections Code*;⁶
- the *ACCC-ASIC Debt collection guideline for collectors and creditors* restricts collection activity and the sale of a debt while an external dispute resolution scheme considers a dispute relating to a debt;⁷
- we can make a temporary ruling about credit management action,⁸ if the provider fails to cease credit management while the Telecommunications Industry Ombudsman handles the complaint.

⁶ *Telecommunications Consumer Protections Code* (C628:2015, incorporating variation 1/2018), clause 6.9. See: http://www.commsalliance.com.au/__data/assets/pdf_file/0004/60988/TCP-C628-2015-incorporating-Variation-No-1-2018.pdf

⁷ *ACCC-ASIC Debt collection guidelines for collectors and creditors* (11 July 2017), See: <https://www.accc.gov.au/publications/debt-collection-guideline-for-collectors-creditors>

2.4 Emerging issues with tablets

We see an emerging number of complaints to our scheme involving tablets where the cost of the device and service may be bundled with a mobile or smart phone handset as part of a voice and broadband service plan.

Scenarios A to G provide an insight into the types of experiences consumers report to the Telecommunications Industry Ombudsman when they complain about international roaming with a tablet.

The scenarios may present useful reference points for how the Standard could be adjusted to sufficiently respond to situations when:

- consumers incur excessive international roaming charges for data usage only (instead of combined with voice calls) when they travel abroad with SIM-enabled tablets;
- providers offer bundled shared data plans for phone handsets and tablets domestically, but international travel packs only cover phone handsets and not the bundled tablet;
- communication with the customer to provide warnings, alerts and spend management tools is via a tablet and not a mobile or smart phone.

The scenarios suggest consumers can experience 'bill shock' for financial amounts that go beyond the 75th percentiles in **Figure 7**, when they travel overseas with a tablet.

Scenario A: Consumers may be unaware of how to manage spend when roaming with a tablet

The consumer travelled to Thailand to visit family. The consumer was charged almost \$21,000 for international data roaming on the tablet.

On arrival in Thailand, the consumer purchased a local SIM to use in her bundled mobile phone, but was unaware she could be incurring excessive international data roaming charges on the tablet.

In resolution of the complaint at conciliation, the provider agreed to apply a credit of almost \$19,500, with the consumer agreeing to pay the outstanding \$1,500 in \$500 monthly instalments. The credit was offered in recognition the consumer did not receive any warnings to be able to manage her data usage.

Scenario B: International travel pass not properly activated for the tablet

The consumer reported they had requested activation of an international roaming travel pass to their bundled mobile phone and tablet before travelling to Asia. The travel pass was correctly applied to the consumer's mobile phone, but not activated for the tablet.

While overseas, the consumer found they were barred from their tablet and on returning to Australia, received a \$20,000 bill for international roaming charges. When disputing their bill, the provider offered to apply a credit of approximately \$21,000 so the customer's bill would be reduced to approximately \$1,100. At the time of complaining to our service, the credit had not yet been applied.

Scenario C: Roaming data packs may not apply to tablets in a bundled plan

The consumer upgraded their mobile phone plan with their provider, which included a bundled tablet. The consumer activated a roaming data pack before travelling to New Zealand in early 2018. On returning to Australia the consumer received a bill for approximately \$17,000 for international data roaming charges.

The consumer disputed the bill on the basis that they never received any SMS messages or usage alerts on their tablet. They also said they were not made aware the travel pack did not apply to their tablet.

⁸ As above for note 2, clause 4.1

Scenario D: Consumers may believe travel packs apply to tablets when they are on shared data plans

The consumer took out a bundled post paid mobile phone and tablet service on a shared data plan. Before travelling overseas they activated a travel pack in store with their provider.

On returning to Australia, the consumer received a \$5,100 bill for international roaming charges. The consumer disputed the bill because they had purchased a travel pack and claimed they did not receive any warnings or usage notifications. They said the travel pack should cover their tablet because they are on a shared data plan for both devices.

Scenario E: International data roaming charges for apps on a tablet

The consumer used their SIM in their tablet while travelling overseas. On returning to Australia, the consumer discovered they had a \$18,700 bill for international roaming charges. The provider told the consumer the data usage was due to apps running on their tablet. The consumer disputes having to pay.

Scenario F: Incurring international roaming charges on a tablet without ever leaving Australia

When the consumer updated their mobile plan, they purchased a bundled tablet. In late 2017, the consumer (represented by a case worker) requested that their provider waive \$11,000 in international roaming charges for the consumer's tablet because they had never travelled overseas.

The provider agreed to waive the charges after the consumer submitted a signed statutory declaration that they do not own a passport and was working in Australia when the international roaming charges were supposedly incurred in Singapore. At the time of complaining to the Telecommunications Industry Ombudsman, the charges had not yet been waived.

Scenario G: No SMS warnings or usage alerts received on the tablet while overseas

The consumer reported they are on a shared family package with their father-in-law. The father-in-law believed he had turned off global roaming on the tablet before travelling overseas and only used free wi-fi.

The consumer noticed they had a \$20,000 bill for internet usage when checking their account status online. They called their provider in a panic and were advised not to worry, the charges were included in their package. The consumer disputed the \$21,500 bill for international roaming charges. The father-in-law did not receive an SMS message on arrival overseas and did not receive any warnings or alerts to manage his spend.

Appendix A: Context for complaints to the Telecommunications Industry Ombudsman about international roaming charges

This Appendix A covers:

- Growth in mobile use and ownership of smart phones and tablets
- More Australians travel abroad every year

A.1 Growth in mobile use and ownership of smart phones and tablets

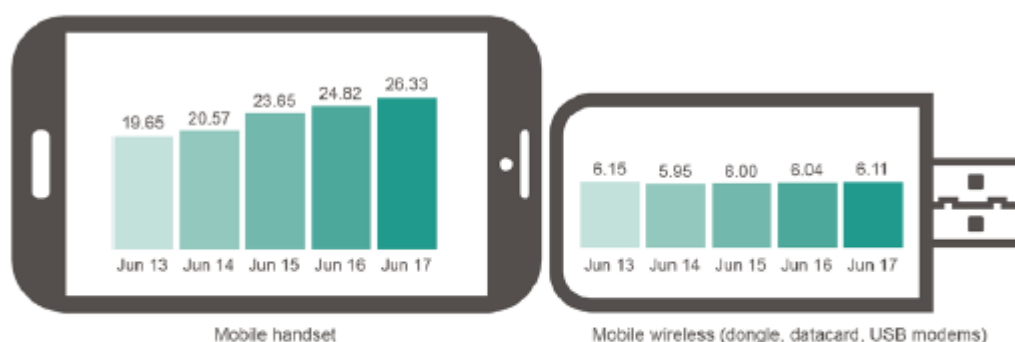
Government and regulators report an uptake in the use of mobile services and ownership of smart phones and tablets since the *Telecommunications (International Mobile Roaming) Industry Standard 2013 (Standard)* has been in place.

At the end of December 2017, there were approximately:⁹

- 26.7 million (26,694,000) mobile handset subscribers; and
- 6.3 million (6,286,000) internet subscribers using wireless broadband services to connect to a mobile network using a tablet, dongle or portable modem.

The ACMA reports how these subscriptions have grown since 2013, especially to access the internet:¹⁰

Figure 1.6 Mobile-internet subscribers in Australia (millions)



Base: Number of subscribers.

Note: The ABS has revised mobile handset internet subscriber figures for June 2015 and 2016 and they are different to those previously published.

Source: ABS, [8153.0 Internet activity, Australia, June 2017](#).

Recent market research reports 1.5 million tablets were sold in Australia from 1 January to 30 June 2018 (up by 3.6% from the previous year).¹¹ The ACCC observes the greater use of SIM-enabled tablets is having increasing significance for the wireless broadband service market.¹²

In 2017:

- 95% of Australians used a mobile phone, with a growing proportion, eight out of 10 Australian adults owning a smartphone (15.45 million);¹³ and
- 91% of internet connected households used a mobile or smart phone, with tablets being the next most popular device, used by 66% of internet connected households.¹⁴

⁹ Australian Bureau of Statistics, *8153.0 – Internet Activity, Australia, December 2017* (released 3 April 2018, 11:30 am). See: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8153.0/>

¹⁰ ACMA, *Communications Report 2016-2017*, 21. See: <https://www.acma.gov.au/-/media/Research-and-Analysis/Report/pdf/Communications-report-2016-17-pdf.pdf?la=en>

¹¹ Telsyte Tablet Computer Market Study 2018-2022 referred to in Telsyte, *iPad remains top tablet as Australians take to interactive mobile gaming* (11 September 2018). See: <https://www.telsyte.com.au/announcements/>

¹² ACCC, *Competition and price changes in telecommunications services in Australia Report 2016-17 (February 2018)*, 31. See: <https://www.accc.gov.au/publications/accc-telecommunications-report/accc-telecommunications-report-2016-17>

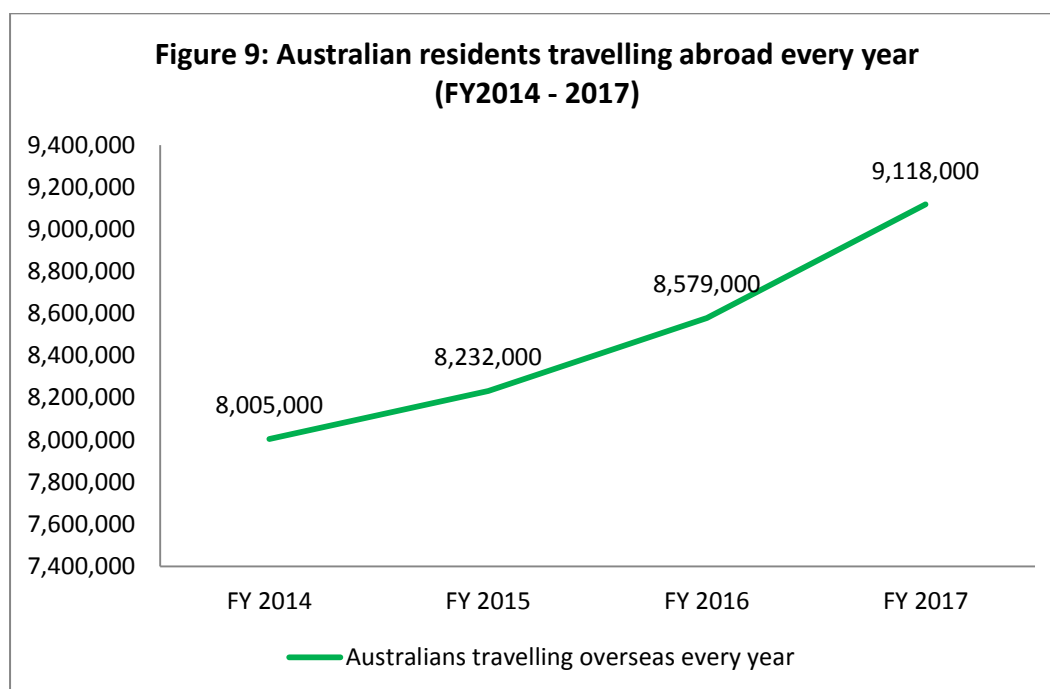
¹³ ACMA, *Communications Report 2016-2017*, 16-17. See: <https://www.acma.gov.au/-/media/Research-and-Analysis/Report/pdf/Communications-report-2016-17-pdf.pdf?la=en>

¹⁴ Australian Bureau of Statistics, *8146.0 – Household Use of Information Technology, Australia, 2016-2017* (released 28 March 2018, 11:30am). See: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8146.0>

A.2 More Australians travel abroad every year

The Australian Government reports a growing number of Australian residents travel abroad every year. In 2017, for the majority (56%) of outbound Australians (5,118,000 travellers), the purpose for overseas travel was to holiday, with the remainder (44%) travelling overseas to visit friends and family or for business and other purposes.¹⁵

As illustrated by **Figure 9**, since the Standard has been in place, the total number of Australians who travel abroad every year has increased, continuing an upward trend towards 10 million Australians travelling overseas every year.



Source: Tourism Research Australia, *Outbound Tourism Statistics* for the number of Australian residents who travel abroad for each year ending June 2006 to year ending June 2017.¹⁶

¹⁵ Tourism Research Australia, *Outbound Tourism statistics* for the number of Australian residents who travel abroad for each year ending June 2006 to year ending June 2017. See: <https://www.tra.gov.au/Archive-TRA-Old-site/Research/Australians-travelling-overseas/Outbound-tourism-statistics/outbound-tourism-statistics>

¹⁶ As above for note 15

Appendix B: How to understand the Telecommunications Industry Ombudsman's complaints data

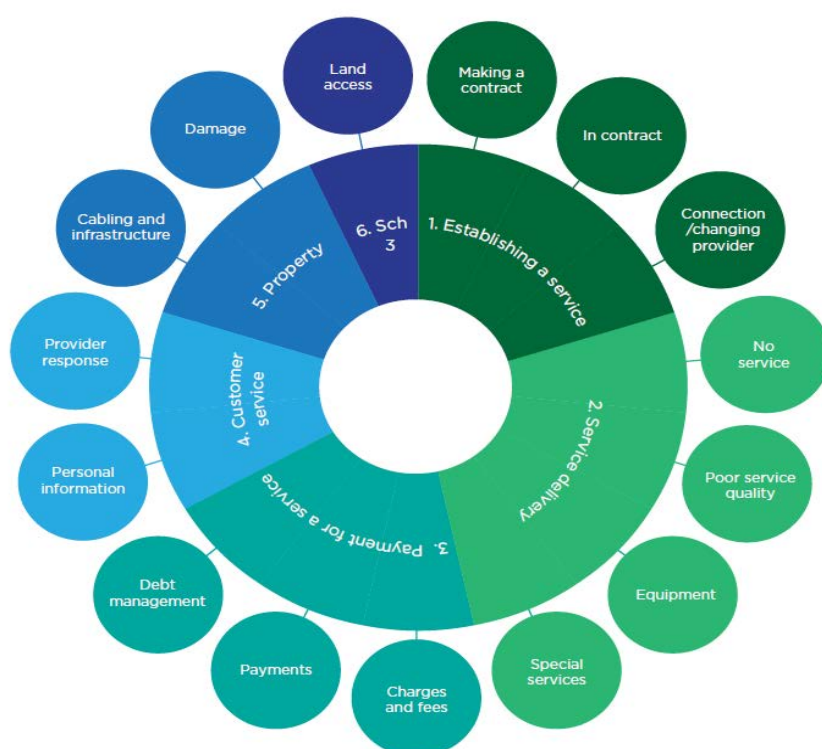
This Appendix B covers:

- Changes to recording complaint issues from 1 July 2017
- Complaints we handle
- About us

B.1 Changes to recording complaint issues from 1 July 2017

On 1 July 2017, the Telecommunications Industry Ombudsman changed the way it captures and records the issues consumers raise in complaints.

Our recording of the issues raised in complaints is now based on six broad categories that follow the lifecycle of the residential or small business' customer relationship with their provider.



For example complaints about international roaming charges come under *payment for a service – charges and fees* – roaming charges.

As part of our change in recording approach, we reduced our complaint issues 'keywords' from 128 to 74 to drive greater consistency in their application and interpretation. When we record a complaint, it may involve more than one issue or 'keyword'.

We also changed our categorisation of the service delivery type for each complaint.

We now record complaints against one of five service categories: phone, mobile, internet, multiple and property.

We have a separate category for recording land access disputes.

The changes mean our complaints data will more accurately reflect the description of complaints given by residential consumers and small businesses; and make it easier to see the issues facing the telecommunications industry, helping providers improve the delivery of phone and internet services.

B.2 Complaints we handle

The Telecommunications Industry Ombudsman handles residential and small business consumer complaints about our members.¹⁷

B.3 About us

The Telecommunications Industry Ombudsman Ltd was established in 1993, and is a company limited by guarantee.

The *Telecommunications (Consumer Protection and Service Standards) Act 1999* requires providers in the telecommunications service supply chain to be a member and comply with the Telecommunications Industry Ombudsman scheme. This includes complying with the decisions or directions of the Ombudsman.

Members of the Telecommunications Industry Ombudsman include businesses or individuals who are carriers or provide carriage services.

Carriage service providers supply standard telephone services, public mobile telecommunications services or carriage services that enable consumers to access the internet, including services provided by intermediaries who arrange for the supply of these services.

Carriers are owners or operators of a telecommunications network unit that supplies telecommunications services to the public, including mobile networks. A carrier must hold a licence issued by the ACMA and as a condition of that licence comply with the land access regime in the *Telecommunications Act 1997 (Schedule 3)*.¹⁸

The land access regime provides for the Telecommunications Industry Ombudsman to determine a landowner or occupier's dispute about a carrier seeking to enter land if the carrier has not been able to resolve the dispute. Entry onto land may be for the purposes of deploying certain types of prescribed telecommunications network infrastructure. More information about how the Telecommunications Industry Ombudsman determines land access disputes is set out in our *Guideline*.¹⁹

¹⁷ As above for note 2, clauses 2.2 and 2.3

¹⁸ See also: *Telecommunications (Low-impact Facilities) Determination 2018*; *Telecommunications Code of Practice 2018*

¹⁹ *Telecommunications Industry Ombudsman, Guidelines on the Installation and Maintenance of Low-Impact Facilities* (22 June 2018). See: https://www.tio.com.au/_data/assets/pdf_file/0019/170623/Land-Access-Guidelines-2018-Revision.pdf