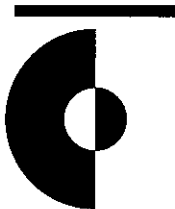


1994
Annual
Report

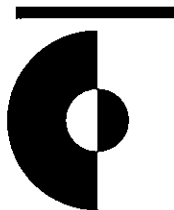


Telecommunications
Industry
Ombudsman

Contents

Mission Statement	2
1.0	
Introduction	3
1.1 Statement from the Chairman of the Council	4
1.2 Statement from the Chairman of the Board	5
1.3 Ombudsman's Overview	6
2.0	
About the TIO Scheme	11
2.1 About the TIO Scheme	12
2.2 The TIO Council	13
2.3 The TIO Board	14
2.4 Telecommunications Industry Ombudsman	16
2.5 Funding	17
2.6 Communications	18
3.0	
About the TIO Office	21
3.1 About the TIO Office	22
3.2 Keyword Classification	27
3.3 An Emerging Issue - Privacy	32
3.4 Dispute Approach	35
3.5 Disputes 1993-94 & Illustrative Case Notes	37
4.0	
Financial Report	41
4.1 Financial Report	42
5.0	
Appendices	45
Appendix A: Constitution	46
Appendix B: Council and Board Attendance	47

1994 Annual Report



**Telecommunications
Industry
Ombudsman**

Mission Statement

The Telecommunications Industry Ombudsman (TIO) Scheme has been established to provide *free, independent, just, informal and speedy resolution of complaints and disputes regarding telecommunications services.*

Independent of governments, carriers, and other interested bodies, the office of the TIO is accessible to consumers of telecommunications services who remain dissatisfied after lodging a complaint with their service provider. All general and mobile telecommunications carriers are members of the TIO.



"Nowhere in the world, except Australia, is there the right to the services of a Telecommunications Industry Ombudsman."



I

Z

T

R

O

D

U

C

T

I

O

N

1.1

Statement from the Chairman of the Council

- The Hon. Lionel Bowen AC

I have pleasure in introducing the First Report of the Telecommunications Industry Ombudsman Scheme. The Federal Telecommunications Act provides that all licensed service providers enter into an Ombudsman Scheme for the investigation of complaints by consumers. Accordingly the Scheme has been established by means of a company known as Telecommunications Industry Ombudsman (TIO) Ltd. There is a Board of Directors and the funding of the Scheme is provided by levies from the Corporation. The Scheme's structure provides for the creation of a Council - initially seven persons, three from the carriers and three from user and public interest groups together with an independent Chairman. It is the function of the Council to recommend to the Board the person to be appointed as Ombudsman. Mr Warwick Smith was appointed Ombudsman following extensive advertising of the position. Mr Smith is an experienced legal practitioner and was a member of the House of Representatives when the relevant Telecommunications Legislation was passed.

The Constitution for the Ombudsman provides that the TIO is responsible for developing procedures for the resolution of complaints that are fair, just, economical, informal and expeditious. The Council acts as an intermediary between the TIO and the Board of the company known as TIO Ltd and has prime responsibility for policy matters and oversight of the Scheme. The TIO has responsibility for the day to day operation and resolution of the individual complaints.

Council is of the view that the Scheme is working well. Warwick Smith has recruited a very dedicated and efficient staff. They commenced operations in December last and this Report illustrates the many inquiries that have been received and their outcome. You will particularly note the efficiency achieved in resolving most matters in a brief period.

The Scheme is a 'world first' and the experience of the first year shows that there is great advantage in having representatives of the Telecommunications carriers and consumer groups working together to assist the Ombudsman resolve complaints, in a minimum of time at no cost to the consumer. This creates a climate of goodwill which enhances the Telecommunications industry and underpins the effectiveness of the legislation which brought the concept into being. It is recognised that there will always be room for

"The TIO is helping to build a better industry by listening to the customer."



improvement and it is the responsibility of the Council to monitor the Scheme and recommend amendments to the Constitution should that be necessary.

My fellow Council members deserve high praise for their advice and assistance so essential in the creation of new concepts of mediation. I also thank the Board for its ready co-operation and support of the Council's decisions.

On behalf of Council I congratulate the Ombudsman and his staff for their efficiency and dedication in achieving the successful acceptance of the Scheme by so many consumers as evidenced by the statistics in this Report.

A handwritten signature in dark ink, which appears to read "Lionel Bowen". The signature is fluid and cursive.

LIONEL BOWEN AC

1.2

Statement from the Chairman of the Board

- Mr Ross Ramsay

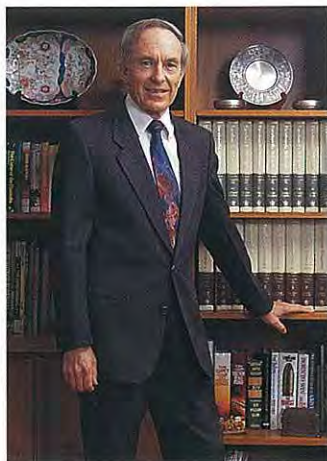
In 1992 carrier representatives met to consider how best to meet a condition in their licences, namely to enter into an Ombudsman scheme in association with each other. The Government wished to see the scheme funded and operated by the carriers.

After discussion with interested parties, particularly consumer representatives, a draft scheme was publicised within the industry and in public forums.

The key elements were to provide the Ombudsman with sufficient powers to resolve disputes and complaints, while maintaining his or her independence in using those powers, potentially against those funding the scheme.

A company structure, Telecommunications Industry Ombudsman Limited, was agreed by the carriers and approved by the Government. It has a non-executive Board of Directors ultimately responsible for achievement of its objectives including the normal requirements of company law. The Board members are all senior executives from the participating carriers, Telecom, Optus and Vodafone.

The special feature of this company is that there is also a Council, comprising an eminent and independent Chairman and equal representation from the carriers and consumers.



The Council is the key to maintaining the independence of the Ombudsman.

It is the Council who selects the Ombudsman, recommends how funds should be spent and monitors the overall performance of the Scheme.

The Board is very pleased with the speed and efficiency with which the Scheme has been established. Following Council's selection of Mr Warwick Smith as Ombudsman, it was up and running very quickly.

It is not easy to start any organisation from a zero base, yet the feedback from telecommunications customers and industry representatives alike is that they see it already as speedy and effective in meeting its aims.

This has been due to several factors, the conceptually sound structure, the harmonious relationships between the Board, the Council and the Ombudsman and most importantly, the enthusiasm of the Ombudsman and his talented team. The Board looks forward to its continuing success.

A handwritten signature in black ink, reading 'Mr R Ramsay' in a cursive script.

ROSS RAMSAY

The Ombudsman's Overview

Origins

The TIO Scheme was borne out of a strong desire to ensure in an emerging competitive telecommunications marketplace, that individual and small business customers and consumers of services would have an independent voice to champion the resolution of complaints. Hence our existence.

Public policy development in communications is marked by one fundamental reality - change. Change is inevitable but it must benefit all regardless of economics, geographic or social position. The TIO Scheme is a free, independent, open access dispute resolution centre for consumers who are unable to resolve their difficulties with the carriers.

Size of Industry

Change is taking place and the telecommunications industry in Australia continues to grow rapidly. There are over 8.85 million telephone subscribers and over 30 million phone calls per day. The industry is estimated to be worth about \$15 billion per annum. The annual growth rate of the telecommunications services industry is estimated at over 5%. Growth and change are the characteristics of this industry and it will continue as such for a considerable time.

A World First Success

The creation of the world's first national Telecommunications Industry Ombudsman Scheme to elevate consumer and customer complaints has proved, in this first year of operation, a great success. This success is due in no small part to the united support by all political colours to commit to its establishment under the Telecommunications Act of 1991. The constructive support and recognition of the Scheme's independence by the three participants Telecom, Optus and Vodafone since establishment, have been mirrored by those from the consumer movement of Australia namely the Australian Consumers' Association (ACA); the Australian Financial Counselling and Credit Reform Association (AFCCRA) and the Small Enterprise Telecommunications Centre (SETEL), all of whom have an equal voice on the Council of the TIO Scheme, the supreme policy and governance forum of this unique Scheme.

"Our credo is to be fair, speedy, independent and free as we deliver our services."



Industry Incentive

Required by legislation in the licence conditions to commit to the Scheme, the telecommunications carriers are also required to pay for the Scheme under an innovative formula that essentially means they pay amounts equal to the number of complaints against them. Thus there is real incentive for the carriers to address complaints early, prior to them progressing to the office of 'last resort', the TIO for investigation and resolution.

Alternative Dispute Resolution

A growing realisation that the often prohibitive cost of justice and delays in the administration of justice, is effectively justice denied, has led to a rapid emergence of alternative dispute resolution in Australia. Central to the TIO Scheme is a commitment to and practice of mediation and Alternative Dispute Resolution as we seek to resolve complaints received.

Enquiries and Complaints Calls

The numbers have grown substantially. Since opening on 1 December 1993 we have received 19,525 calls (to 30 November, 1994). To date we have opened 10,624 cases. Of these we have resolved 96.5% as at 30 November, 1994. A majority of those have been resolved within 7 days of receipt at our office. 55.5% have been resolved in favour of consumers.

The range of complaints has been very wide. These complaints are detailed in the extensive data obtained from our purpose-designed computer customer management system.

From the range of activity that the TIO Scheme has covered in the first twelve months some major milestones have been achieved and some lessons have been learnt that may prove illustrative as to the future of the changing telecommunications industry.

Elevating Customer Concerns

The first and foremost issue is that the 'customer' must be, and deserves to be elevated to the top priority in the development of a service culture in this industry. Indeed a broader objective of such a Scheme is to, in an emerging competitive market, enable customer concerns to 'drive' service levels to help achieve overall industry improvement, to the benefit of the whole population and economy. Given that telecommunications services touch nearly every household and business in Australia, an improvement in service and the price of those services assists the overall competitiveness of the Australian economy. The attention the Scheme has received from Canada, Indonesia, the Netherlands and others, is testament to the wisdom of developing this unique Scheme.

Establishment of the TIO Scheme

The commitment to a fair resolution of complaints requires a dedicated group of special individuals. The TIO establishment was achieved by a commitment from all Council and Board members, the Executive Team of the TIO, and the very special team of Investigations Officers. Our Scheme is not a government Scheme, it is not an industry Scheme - it is an independent Scheme that reports publicly by this annual report and community forums. The TIO team has, in twelve months, achieved the successful establishment of 'a world first' in the fastest growing and most rapidly changing of industries.

Our early achievements are the result of the efforts and tenacity of all at the TIO and the help and support of many others. The process of establishment and implementation has not been without stress and has tested many of us - but it can be said that the diverse talents of all involved who are committed to this Scheme, have delivered to Australian consumers a useful, helpful and caring Scheme of which each of the TIO team can be well proud.

Putting People First

Putting people first has been the underlying approach of the TIO Scheme and we have sought to achieve this in everything we have done as we strive to meet the objectives of the Scheme. We are an office of last resort and as such we have a responsibility to listen to what our callers have to say. Listening is the foundation of understanding, thus is an important aspect of our job. Those we seek to help have, more often than not, experienced undue delays or difficulties and are in need of someone who will first listen, then resolve their problem.

Making Customer Service a Reality

It is not good enough to give glib definition or mere lip service to the concept of customer service. The TIO's imperative is to make customer service a reality. We realise that our success as an office of last resort very much depends on consumer and community credibility, trust and confidence. People will only continue to seek our help if they believe that we are independent, possessed of integrity and have the willingness and ability to achieve results. If we can give, and be seen to be giving, consumers a participatory voice in telecommunications change, then our future is assured.


Issues

From our independent vantage point, it is apparent that the carriers' billing systems need attention both in terms of presentation and accuracy.

Charges levied for equipment rental and service fees are not clearly shown as optional to customers. Customers may have purchased their own approved equipment and yet still be paying for equipment charges from a carrier for equipment that is no longer in use, in ignorance due to the lack of explanation on accounts.

Also the \$50 connection fee and the \$30 silent line fee raise concerns among consumers. At the time of connecting the various choices on line rental, phone purchase and maintenance options are seldom explained, nor are they sufficiently detailed on accounts. These matters all require attention.





"The TIO gives clarity to an industry that many find confusing."

Itemised billing is vital for dispute resolution. The rapid upgrade of exchange capacity to digitised standard is essential for a greater response to this core issue. We have prepared a more detailed section on billing in this report as it constitutes the highest level of complaints - just over 35%.

Fault reporting also proved a troublesome area. Likewise late connections has also been an issue. In some other industries a financial penalty payable by the service provider for tardiness or non-compliance by advertised completion time, is a customer feature. There are some existing guarantees provided by carriers. An extended regime is now required in Australia. Enforceable customer guarantees involving the telecommunications industry should be developed as a priority. For example, if a customer connection is not made within 2 days of request then for each additional day a penalty or discount should be paid by the carrier to the customer.

We are also concerned that our jurisdiction does not cover Yellow Pages complaints. The discussions on formation of the TIO Scheme decided for spurious reasons that Yellow Pages, the most commercial of services, not be included when White Pages are. The number of complaints are small but for convenience and completeness, the jurisdiction should be varied. Often customer premise equipment is the subject of customer concern and complaint and whilst the jurisdiction of the Scheme does not extend to this area, such matters will require consideration by the industry. Our investigations rely heavily on the access to, and verification testing by the carriers where matters are in dispute. This is not always fully satisfactory and some consideration to the establishment of a process providing stronger independence for the TIO will need to be completed. This might include involvement with AUSTEL's technical expertise. Independent access to the assessment by the carrier of disputed information of caller issues is important for the future of the Scheme. The onus must continue to be put on service - our telecommunications industry is doing much better than in the past but there is still room for considerable improvement.

Privacy

The issue of individual privacy has as an issue of complaint surpassed early expectations. Almost 10% of our total complaints relate to nuisance calls,

telemarketing calls, silent line invasion and third party access to billing data.

Voice Monitoring Guidelines

During the year, our office established Voice Monitoring Guidelines for Telecom to which Optus and Vodafone also committed. This was done after consultation with the Federal Privacy Commissioner and the Law Council of Australia. Recommended also in the process was the establishment of an independent external privacy audit unit for Telecom. This has now been established. The guidelines are now forming the basis of a code being developed by Government for inclusion in the Telecommunications Act.

AUSTEL Privacy Advisory Committee

The TIO also plays a role in the new AUSTEL Privacy Advisory Committee and will participate in the provision of advice concerning telemarketing, silent lines, churning and caller ID technology.

The convergence of telecommunications and information technology is to lay bare the very democratic principles upon which our nation is founded. It has been a revelation to me, following a decade in public life, that the pervasiveness of information gathering and dissemination has extended as far as it has. It is time to take stock. It is time to decide the balance between necessity of access and protection, in the 'knowledge era' now upon us.

Public Policy in an Age of Convergence

The test for public policy makers is to determine how to provide a meaningful complaints regime in a converging telecommunications, entertainment and information

technology market. Many questions need to be asked. Who does one complain to if the 'set top' Pay TV box does not perform? What about content? How would the TIO maintain its independence in the face of increasing tension with carriers who become multimedia providers? Recent commercial arrangements highlight convergence has taken place with announced joint projects and ventures between the media, entertainment and telecommunications industries. One concern from consumers' point of view is that the establishment of such new services which will 'piggy back' on existing telecommunications services, will not be in fact costed to the disadvantage of consumers. The 'information superhighway' is said to have a price tag of \$40 billion according to the Bureau of Transport and Communications Economics, as new residential communications networks are developed. Equity of access to all Australia will certainly be an issue as these matters develop. Will diversion of resources to new ventures diminish services to core telephony customers? Will pricing to fund these new services penalise basic service users? Many challenges lie ahead.

AUSTEL and the TPC

Our relationship with the Australian Telecommunications Authority (AUSTEL) and the Trade Practices Commission (TPC) has been very constructive as the TIO Scheme has been established. The major policy issues on consumer matters are for AUSTEL and recent positive changes following the recommendations of the AUSTEL Casualties of Telecom (COT) Report of April, 1994 have given a new impetus to focus on these broader issues. Advertising in an aggressive, competitive market is a concern and referral to the TPC and Advertising Standards Council of a range of complaints has achieved some good results for consumers.

Casualties of Telecom (COT)

A major undertaking has been the Casualties of Telecom (COT) cases. These matters are long running disputes with Telecom by complainants relating to compensation claims caused by Difficult Network Faults (DNF). Our role has been to administer an AUSTEL, claimant and Telecom agreement to arbitrate these disputes outside the Courts. It has been a salutary experience. The historical nature of these matters dating back to 10 years, gives further illumination to the past failure of management and other available agencies, to resolve these matters. The extent of these matters will be subject to a separate report on their conclusion, if that is ever able to be achieved.

In hindsight, it may have been questionable to ever have had the TIO involved in these matters, but justice must be delivered to these claimants and this is best done under the process now in place and administered by this

office. Fortunate though the process may be, serviced by the best mediation, arbitration, legal and accounting individuals in Australia, the episode is clearly the low water mark of effective customer relations, regulatory agency response and questionable direction from past management to find resolution. One hopes it will never be repeated. The inordinate time spent by the press, public policy makers and others to ensure a 'just' redress of allegations made, will surely be recorded at some stage. As for the TIO Scheme, we have always endeavoured to play a positive, independent role. To this end we have been successful as a process is in place that is independent, fair, just and designed, where the parties will it, to be expeditious. As it always was, it is now up to the parties. Regrettable reliance on excessive legalism and failure to meet Freedom of Information requirements in a timely fashion has led, in my view, to an unnecessary prolongation of a process which was intended to be speedy. It was never intended to be a process of Supreme Court proportions or length. We will persist to seek solutions and finality.


Conclusion

Off to a Good Start

The establishment of the TIO Scheme is now complete. It is however, too early to measure overall impact. As we continue to roll out the Scheme and broaden our consumer and community base we will compile a comprehensive picture of our callers' problems. Likewise as the Scheme grows, comparative statistics will be available and we will be better able to measure our impact. An internal review by independent consultants has already been completed. This focuses on the management challenge now faced by the TIO team as we consolidate the service.

The future of the industry is marked by rapid change and competition. The active involvement of customer interfaced 'service providers' may see an extension of the Scheme. This issue is being actively pursued by the TIO Council. Also the development of our staff skills and training is now a high priority.





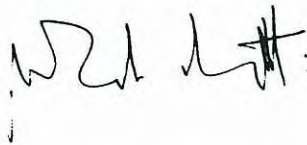
"The TIO Scheme is all about putting people first."

Community Outreach

Our Community Outreach program is already extensive, but will increasingly target specific groups. Consumer forums in Melbourne, Sydney and Brisbane and extensive promotional tours of regional New South Wales, North Queensland including the Torres Strait and visits to Hobart, Adelaide and Perth, have all taken place in the first year. Our 'Mobile Phone Etiquette' guide proved a popular success and our quarterly 'TIO TALKS' newsletter has gained a wide readership. Much more work to establish our existence in the broader community is still required. The challenge of establishment has been met and I extend thanks to all who have assisted.

Independence and Integrity

In conclusion, let me stress that the TIO is an independent office of last resort, that we seek to ensure our integrity and that we provide our services free to consumers. We are independent of both governments and carriers and our future very much rests in the maintenance of this independence.



WARWICK SMITH
OMBUDSMAN





2.1

About the TIO Scheme

The Telecommunications Industry Ombudsman (TIO) Scheme was established on 1 December 1993, as an independent office of last resort to enable complaints and disputes between consumers of telecommunications services and licenced carriers (Telecom, Optus and Vodafone) to be settled by mediation or arbitration.

The national office of the Ombudsman for the Telecommunications Industry has been established as an independent office to meet the needs of the Scheme.

Origins

The TIO Scheme had its genesis during the 1991 Telecommunications legislation debate. With industry deregulation and the introduction of competition and choice, the bipartisan view was that consumers' interests, particularly those of the small customer, needed better protection and enhancement.

Before deregulation, complaints about the sole supplier, Telecom, like other government instrumentalities, were dealt with by the Commonwealth Ombudsman.

With the advent of competition and the existence of new carriers came the need to deal fairly with complaints against these new suppliers.

In a unique response, the Parliament, under section 64 of the 1991 Telecommunications Act, decreed that as a condition of obtaining a telecommunications service licence, carriers had to commit to, and fund an independent Ombudsman Scheme.

In formulating the TIO Scheme, a number of models were examined including the Banking Industry Ombudsman Scheme and the British Insurance Ombudsman. These schemes were taken into account, however it was found that there was no clear model or precedent anywhere in the world.

A World First

Hence, the TIO Scheme is the first in the world to be mandated by legislation yet divorced from the process of government - for the telecommunications industry - Telecom, Optus and Vodafone - both fund and develop it.

Modelled in part on the Australian Banking Industry Ombudsman Scheme, the TIO was developed by the carriers, Telecom, Optus and Vodafone, in consultation with a broad range of consumer and community groups including the Australian Consumers' Association (ACA), the Australian Financial Counselling and Credit Reform Association (AFCCRA), the Small Enterprise Telecommunications Centre (SETEL), the Australian Telecommunications Users Group (ATUG), Australian Associated Press, small business, ethnic communities, regional, rural and remote Australia and disadvantaged and disabled representatives.

Although divorced from government, the Federal Ministers for Communications and the Arts and Consumer Affairs had input to the Scheme's constitution.

Establishment

The TIO Scheme was established by means of a company limited by guarantee - the Telecommunications Industry Ombudsman Limited. All general and mobile carriers are members of TIO Limited. In addition, telecommunications service providers, under a class licence may either participate in the Scheme as a member of TIO Limited, or by contracting into the TIO Scheme.

The Scheme is a national Scheme with its headquarters located in Melbourne. It is industry funded and is independent of Government.

Focusing on individual complaint and dispute resolution the Scheme aims to provide 'independent, just, informal, speedy resolution of complaints and disputes' and is both free and accessible to any individual consumer of telecommunications services.

The office of the Ombudsman is possessed of integrity and is independent of carriers, service providers, governments and other interested bodies.

The memorandum and articles of association of the company establish:

- a Council, composed of equal representation of member representatives (industry) and of consumer and community interests, chaired by an independent Chairperson.
- a Board of Directors, composed primarily of directors appointed by members and vested with traditional corporate management responsibilities; and
- a Telecommunications Industry Ombudsman (TIO), vested with authority under the TIO Constitution to receive, investigate and facilitate the resolution of complaints and disputes.

2.2

The TIO Council

The TIO Council has responsibility for:

- overseeing the TIO Scheme;
- addressing complaint handling policy issues,
- maintaining the independence of the Ombudsman, and
- acting as an intermediary between the Ombudsman and the Board.

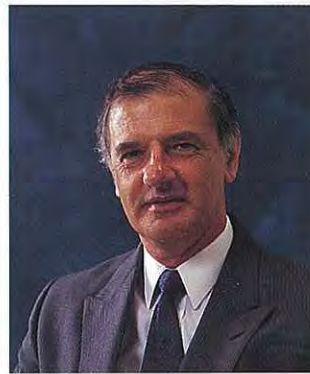
The members of the Council are:



The Hon Lionel Bowen AC
Chairman of the Council



Mr Andrew Bailey
Director
Regulatory and Corporate Affairs
Optus Communications
Pty Limited



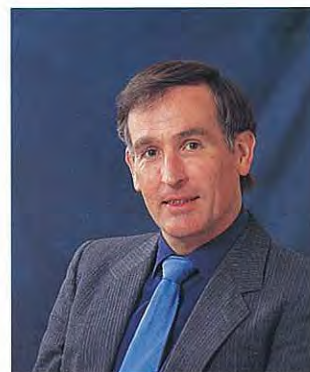
Mr Ted Benjamin
National Manager
Customer Response Unit
Telecom Australia



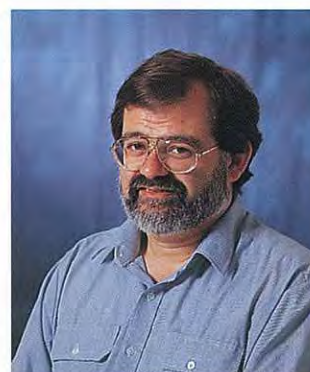
Mr John Rohan
Managing Director
Vodafone Australasia
Pty Limited



Ms Elizabeth Morley
Australian Consumers'
Association



Mr Ewan D Brown
Executive Director
The Small Enterprise
Telecommunications
Centre Ltd (SETEL)



Mr Robert Morsillo
Australian Financial
Counselling and
Credit Reform Association

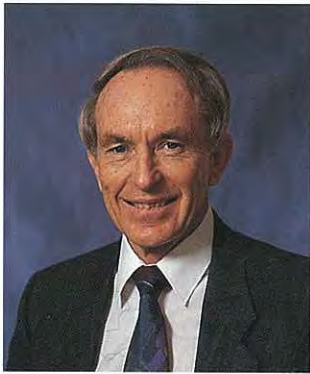
"In an emerging, competitive market small consumer interests need protection."

2.3

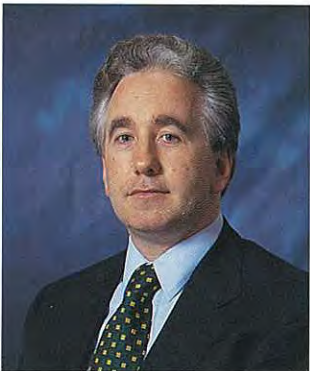
The TIO Board

The TIO Board is responsible for the formal administration of the company and exercises final authority in relation to its financial affairs. Its members fund the Scheme on a volume related costs basis, the Scheme is independent of Government.

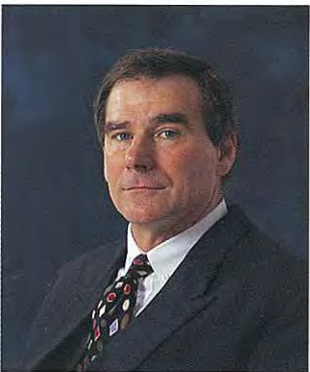
The members of the Board are:



Mr Ross Ramsay
Chairman of the Board
Manager
Government Liaison
Optus Communications
Pty Limited



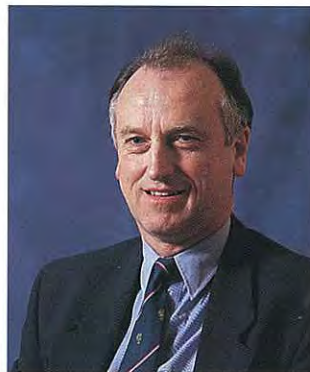
Mr Rob Simpson
General Counsel
Optus Communications
Pty Limited



Mr John J T Fries
Financial Director
Vodafone Pty Limited



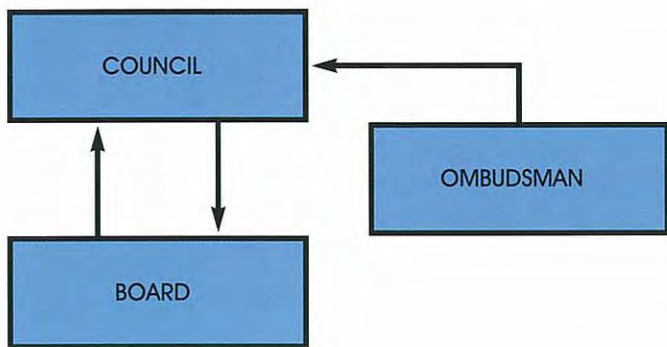
Ms Gillian Welshe
*Director of
Corporate Affairs*
Telecom Australia



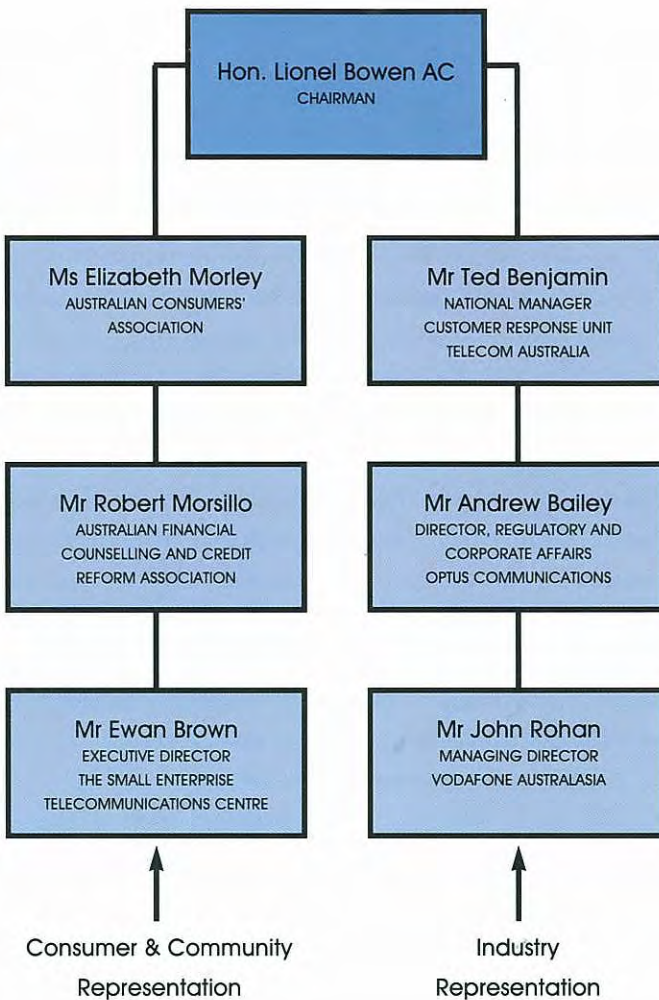
Mr Graeme Ward
Director of Corporate Planning
Telstra Corporation

"We intend to be an instrument for progress and change to the benefit of all customers and all Australians."

Council - Ombudsman - Board Relationship



TIO Council Structure



"If looked after and nurtured, today's disgruntled customer can become tomorrow's loyal one."

2.4

Telecommunications Industry Ombudsman

The Ombudsman - Warwick Smith

The Board and Council of TIO Limited appointed Mr Warwick Smith to the position of Ombudsman for the Telecommunications Industry in August, 1993 following a national search by recruitment consultants.

Mr Smith was born in Launceston, Tasmania in 1954 and is married with three children.

A graduate in law from the University of Tasmania and having also attended the Australian National University, Mr Smith previously practised law as a Partner and Consultant to legal firms in Tasmania.

Mr Smith was a member of the House of Representatives from 1984 to 1993, and held the positions of Manager, Business in the House of Representatives for the Opposition, as well as Shadow Minister for:

- Science and Energy
- Privatisation
- Aboriginal Affairs
- Communications

Mr. Smith has been the Deputy Chairperson of the Legal and Constitutional Committee of the House of Representatives, completing reports into Insider Trading, Shareholders Rights and Trade Practices issues, the Deputy Chairperson of the Print Media Inquiry, and a member of various policy and other Parliamentary Committees.

Mr Smith has also been a member of, or participated in:

- AFS International Exchange Student in 1972;
- the study tour of Japan for Rotary in 1982;
- the Duke of Edinburgh Study Conference in 1986;
- many Parliamentary delegations including to China, Israel, United States, Canada, Indonesia, Taiwan, United Kingdom, Malaysia and Singapore.

Currently he is a member of:

- the Australia Law Council - Telecommunications and Media Committee;
- the Australian Securities Commission - Tasmania Liaison Committee;
- the Council of The University of Tasmania;
- the Australian American Leadership Education Foundation;
- the Communication Research Institute of Australia;
- the Cranlana Symposium (Myer Foundation) - 'Knowledge in 21st Century';
- the Pacific Telecommunications Council.



Sue Harlow
Deputy Ombudsman

Sue Harlow was the inaugural Deputy Ombudsman. She recently left the TIO to join the board of AUSTEL after one year.

Previously Sue was a senior ministerial adviser, secretary of the House of Representatives Expenditure Committee which completed several detailed reports into telecommunications. As an officer of the Department of Communications, Sue had involvement in Pay TV, telecommunications and radio communications policy and implementation issues. A graduate of Melbourne University Sue has a Masters Degree from North Carolina State University. She contributed to the development of the process and procedures of the fledgling TIO Scheme and her long experience in policy formulation was very important in the vital establishment stages of the Scheme.

Wally Rothwell

Wally Rothwell has been appointed as the new Deputy Ombudsman and will commence in January 1995. Mr Rothwell a former naval captain, is trained in communications and telecommunications. For the past ten years he has been the inaugural Chief Executive Officer of the Australian Telecommunications Users Group (ATUG). ATUG is the voice of corporate and small business and as such has played a role in enhancing services to the benefit of all Australians.

Mr Rothwell's detailed management skills and knowledge of all aspects of the telecommunications industry will be valuable as the TIO Scheme develops.



2.5

Funding

TIO Annual Funding

The TIO has a unique billing system which ensures the funding is independent of government and the carriers as it is allocated on a cost recovery basis. The funding has been established this way as it generates incentives for the expedient resolution of complaints. The incentive is firmly with the carrier to address customer related issues prior to matters being dealt with by the TIO. Financial budgets are submitted to the TIO Council annually who, after consideration, then refer them to the TIO Board with comments and recommendations. This process maintains the independence of the Scheme's funding from the carriers. The funding requirements for the first year were threefold: establishment, volume-related and overhead.

Establishment costs included those capital and other costs which were incurred in setting up the Scheme. The costs were allocated in proportion to the number of licenses held by each member and did not include the operating costs for the first few months of set-up and operation.

Volume-related costs are incurred as a result of the day-to-day management and operation of the TIO and vary according to the level of complaints generated by activities which do not include expenditure of a capital nature. There are four levels of complaint, these are *enquiry*, *consultation*, *complaint* and *dispute* and each one has a different level of charge-out to the carriers. This gives the carrier a financial incentive to resolve the problem at an earlier stage and not let the matter escalate. We are required to pre-bill the carriers every six months which means the number of each type of call is estimated. At the end of the six month period the total number of calls is reconciled against the actual number and an adjustment is made to each carrier. The income from the complaints area covers the salary costs of the Investigations Officers, costs relating to free-call telephone, fax, TTY and interpreter services, and 50% of accommodation and other relevant overhead costs. Enquiries not related to a specific Scheme participant are included in the overhead allocation.

Overhead operating costs cover the balance of administrative costs that cannot be directly related to complaints, such as the costs of Council, general systems and communications, insurance, marketing and promotion, and the like.

These are divided among the carriers on a proportional percentage basis of the total value of *enquiries / consultations / complaints / disputes* which are charged to all members.

Any further capital costs for post-establishment capital expenditure relating to the expansion caused by demand of the TIO infrastructure, requires Board approval based on recommendation by the TIO Council.

The cost of establishing and operating the TIO Scheme up until the official opening on 1 December, 1993 was \$973,000. These costs included the furnishing, computers and software, and other equipment necessary to set up the Exhibition Street office. The costs of running the Scheme for the 1994 / 95 financial year are estimated to be \$1.7 million made up of salaries, rent, marketing, telephones, etc. The major costs are salaries and we now have a staff complement of 15 made up of eight Investigations Officers, five support staff and the Deputy Ombudsman and Ombudsman.

DIRECT OPERATING COSTS

Enquiries - carrier specific enquiries

No. of enquiries per carrier X Standard direct costs
= Carrier / Service Provider charge

Enquiries - non-specific enquiries

Allocated to overhead cost pool
= Carrier / Service Provider allocation

Consultations

No. of completed consultations X Standard direct costs
= Carrier / Service Provider charge

Complaints

No. of completed complaints X Standard direct costs
= Carrier / Service Provider charge

Disputes

No. of completed disputes X Standard direct costs
= Carrier / Service Provider charge

OVERHEAD COSTS

Cost Pool

Allocated on a proportional basis of charges for value of enquiries / consultations / complaints / disputes for each member over the total value of charges
= TIO member allocation

2.6

Communications

Awareness and Accessibility

In establishing the TIO one of our prime communications objectives has been to let people know that we exist and are accessible.

To ensure that consumers have a voice in telecommunications change and can enter and drive along the so called 'information superhighways' we have deliberately been shouting from the rooftops "We are open for business, how can we help?"

In order to provide "...independent, just, informal, speedy resolution of complaints" and before we can deliver our services free to consumers - we have sought to create awareness of our existence and an understanding of what we do. We have done this by concentrating on four key communications elements:

- Community Relations and Outreach
- Media Awareness
- Advertising, Promotions and Sponsorships
- Direct Mail

Community Relations and Outreach

To establish our entity and make ourselves known among such a broad, diverse constituency is an evolutionary and continuing process, and one that is not achieved overnight.

Meeting Expectations

In reaching out to the community and promoting ourselves as an office of last resort, we were mindful of the need to fulfil the consumer and community expectations we sought to engender. Therefore, in developing our Community Outreach program, we were aware that it would be neither in the TIO's nor the consumers' interests to foster expectations that could not be met. It would be folly to create a demand which the office could not cope with in our initial set up phase. Consequently our Community Outreach program has been pursued in stages.

TIO's Constituency

Australia's residential telephone users as epitomised by the 97% of homes with a phone; the nation's small businesses that make up 96.6% of all businesses; ethnic communities; regional; rural and remote Australians; the disadvantaged and disabled; and those who are less able to articulate their communications needs.

Community Forums

We have reached out to the community through a successful series of major Consumer Forums held in Melbourne, Sydney and Brisbane respectively. These gave key consumer and community groups an opportunity to meet the Ombudsman and participate in the Scheme's development by both charting its progress and raising issues of concern.

These regular get-togethers have also enabled the TIO to monitor and further improve our communication strategies. As such they are integral to our development and a good means of creating a meaningful community dialogue and network.

As this network grows so will consumer and community participation in these on-going forums.

'TIO TALKS' Newsletter

These forums are supported and enhanced via production of a quarterly newsletter simply entitled 'TIO TALKS'.

'TIO TALKS' gets bigger and better with each issue, and judging by the steadily increasing print runs, so does its readership. Our first six page issue saw a modest 5,000 printed, however by November the 'TIO TALKS' print run was 10,000 and the contents had swelled to 12 pages. Size is but one measure of success, and 'TIO TALKS' quality and continued effectiveness will be guaranteed by greater and more diverse consumer participation. We are already looking to improve its contents with the aim of growing the readership even further.



TIO Information Kit

An important communication and promotional tool is our information kit, the core of which is the 'Phone Problems' brochure. Over 100,000 of these helpful guides to the TIO have already been distributed and another 100,000 have been printed, the bulk of which have been distributed to consumer and community groups, the industry and governments throughout Australia.

Personal Representation

The Ombudsman is of the belief that the best way to reach out to the community is by 'getting out from behind the desk and meeting people'. That is exactly what he has done.

He has given many speeches, the highlights of which included the 'Impact of Convergence of Technologies on Telecommunications Privacy' speech to the Protecting Information Privacy Conference of 7 June, 1994 and 'The Telecommunications Future: Equity and Access for Older Australians' speech to the National Seniors Association Summit on Ageing held in Canberra on 20 October.

In a hectic schedule he has also criss-crossed Australia, having during the last 12 months visited Perth, Adelaide, Canberra, Sydney (many times), Brisbane and key regional and rural centres in Western New South Wales and far North Queensland.

Regional, Rural and Remote Australia Tours

Regional, rural and remote Australians are an important part of the TIO's constituency and in recognition of this, the Ombudsman visited regional New South Wales in August. His tour included visits to Newcastle, Armidale, Dubbo, Orange, Bathurst, Wagga, Albury, and Wollongong. Among the highlights of the tour was the Ombudsman's participation in a telecommunications seminar at the University of Wollongong.

Queensland and Far North Queensland Tour

Queensland is rapidly becoming the 'growth hub of Australia' with nearly 1,000 people a week going there to live. To June 1993, Brisbane's population grew at almost twice the rate of Sydney's and at four times the rate of Melbourne's. Assuming that this growth rate continues, Brisbane's population would overtake Melbourne's by the year 2050.

Most of this population growth is taking place in the growth corridor from the Sunshine Coast to Brisbane through to the Gold Coast (the Gold Coast has Australia's greatest concentration of mobile phone users - one person in seven has a mobile).

However consumers in rural and remote Queensland like their counterparts elsewhere in outback Australia, fear that they may be left behind or overlooked in the rush toward these 'information superhighways'.

This was a major issue of concern expressed to the Ombudsman when he visited far North Queensland in October.

His tour incorporated visits to Charleville, Longreach, Mount Isa, Normanton, Weipa, Thursday Island, Cooktown, Cairns, Mackay, Rockhampton, Gladstone and Toowoomba.



An Invaluable Experience

Visiting local communities and getting out and meeting consumers on their home turf proved an invaluable experience.

This visibility created not only awareness but also trust, confidence and credibility in the TIO Scheme. It gave substance and meaning to the term 'accessibility'.

As the Scheme continues to grow so will, we hope, 'word of mouth' recommendations from the consumers whom we have assisted.

Media Awareness

The TIO's approach to the media has been to ensure easy access consistent with the integrity of the office and the need to keep callers' details private and confidential.

We have attempted to broadly represent the views and interests of consumers, particularly those of our constituency. Wherever possible the Ombudsman has encouraged media accessibility as evidenced by the widespread media coverage of his many interstate visits, particularly those to New South Wales and to Queensland. Likewise the media gave good attention to the many speeches given by the Ombudsman, especially the 'Impact of Convergence of Technologies on Telecommunications Privacy' speech.



High Level of Media Awareness

The TIO Scheme has been the subject of sustained media interest during 1994. In part, this is a consequence of the pervasiveness of a rapidly changing telecommunications industry. It is also a reflection of widespread consumer and community concern about the systemic issues like privacy, accessibility, equity and cost.



Mobile telephones continue to fascinate and the TIO's 'Mobile Phones Etiquette Guide' attracted an inordinate amount of national media interest. In seeking to promote sensitive and better mobile phone use in Australia, the TIO achieved considerable public awareness.



In response to consumer demand we published 'The Etiquette of Mobile Phones' booklet which was launched at the MobileCom exhibition in Sydney on 25 November. The booklet was endorsed and supported by all three carriers: Telecom, Optus and Vodafone and the Cellular Dealers Association of Australia. We thank the industry for its support.



TIO at MobileCom Exhibition

The TIO participated in the successful MobileCom exhibition which was held at Darling Harbour, Sydney from 25 to 27 November. Our display stand at MobileCom attracted widespread public interest and proved an ideal and cost effective way of promoting the TIO in the important Sydney marketplace.

Direct Mail

In an attempt to engender that most valuable and reliable means of communicating, ... *word of mouth*, we are developing a comprehensive direct mail database. Direct mailings of our key promotional tools, namely the TIO Information Kits, the 'Phone Problems' brochure and our 'TIO TALKS' newsletter, continue to support all our marketing and communications. Two hundred thousand 'Phone Problems' brochures were printed. To date over 120,000 have been mailed, 45,000 of which were sent to members of the National Seniors Association. We are grateful for the never ending support received from many individuals and organisations in helping us disseminate our message. Establishing and maintaining a relevant distribution network is integral to all that we do and during the coming year we will continue to enhance our distribution so that we reach those who are in most need of our services.

Lessons of 1994

While many people are now aware of our existence some continue to think of us as an office of first resort rather than an office of last resort. Clearly there is a need to remind consumers that they must first take their problems to their respective carrier before contacting the TIO. Likewise some still think of us as a government department or instrumentality, rather than as an independent Scheme. Consequently, we will continue to reinforce these key messages in the future.

The Future

We are mindful that we have but begun to communicate our existence. To ensure continued and greater access we aim to extend our Community Outreach program to a number of ethnic communities, small businesses and to older age Australians. These communications objectives will not be achieved overnight and are, in part, dependent on the continued goodwill and support already exhibited by key consumer and community groups, the industry and government.

THE TIO OF FICE
ABOUT

3.1

About the TIO Office

The Ombudsman and Staff

As at 30 November, 1994 the TIO Scheme employed 15 staff at the Scheme's national office in Melbourne.

Structure

The TIO Executive Team comprises:

- | | |
|------------------|-------------------------------------|
| • Warwick Smith | Ombudsman |
| • Sue Harlow | Deputy Ombudsman |
| • Rose Searby | Investigations Manager |
| • Helen Bailey | Business Manager |
| • Michael Hince | Community Affairs Manager |
| • Jenny Wrethman | Personal Assistant to the Ombudsman |



Administration:

- | | |
|--------------------|--------------------------|
| • Claudia Calvitto | Receptionist |
| • Natasha Burke | Administration Assistant |

Investigations Team

- Michael Tapper
- Sally Williams
- Julia Hickey
- Sue Ince
- Nicholas Davies
- Jim Tilkeridis
- Barbara Hamner (relieving)



TIO Customer Interface

Over 90% of our customers make initial contact with the TIO over the phone. In part the public's perception of the Scheme is based on how the Investigations Team deals with each call.

After listening to a brief outline of a customer's problem the Investigations Officer must make a judgement about whether the matter raised is within the jurisdiction of the TIO.

If the matter is not within jurisdiction, every effort is made to ensure that a caller is provided with the correct advice of the most appropriate way in which to resolve their problem. This will generally involve referral of the caller to another complaints handling body such as AUSTEL, the Office of Fair Trading, the Commonwealth Ombudsman or State Ombudsman.

If the matter is within jurisdiction, it is first determined whether the telecommunications carrier concerned (Telecom, Optus or Vodafone) has had a reasonable opportunity to investigate and resolve the issue with their customer. We are an office of last resort.

If a decision is made that the matter warrants further investigation by the TIO, the Investigations Officer accepting the call will then raise the matter with the appropriate carrier as an *Enquiry*, *Consultation* or *Complaint*.

The Investigations Officer 'owns' and has the responsibility of a complaint from start to finish; which is generally until the matter is resolved. When, in the comparatively small number of cases, the carrier and a complainant are unable to negotiate a resolution, the matter is classified as a *Dispute*. All Disputes are case managed by the Deputy Ombudsman.

We have taken considerable care over the selection of our Investigations Officers and we are justly proud of their mix of knowledge, skills and experience.

Time Invested and Elapsed of Finalised Cases

Enquiries	8,575	11	7
Consultations	826	35	60
Complaints	825	53	90
Disputes	23	258	120

Total Cases Finalised

Average Time Invested (Minutes)

Average Time Elapsed (Days)

From 1 December, 1993 to 30 November, 1994



Case Summary - Total Cases: 10,624



From 1 December, 1993 to 30 November, 1994

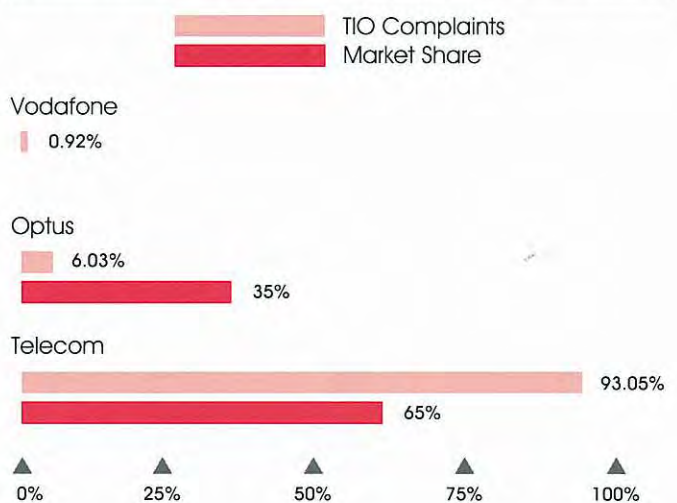
Carrier Breakdown

The market split relates to the telecommunications service for STD and IDD calls whilst the complaints received by the TIO include many more services. Although the graph shows Telecom with 65% of the market share, this share does not include services such as directories, public telephones, residential phone connections which Telecom has control of and to which 15% of complaints relate. Telecom is also responsible for all local calls made in Australia and is largely responsible for technical fault repairs.

Optus carry STD and IDD calls and mobile services only and all three carriers have mobile licences.

The graph provides some indication as to the market share but the figures shown should not be taken as being quantitative and are only broadly descriptive of the profile of complaints per carrier as the market segmentation figures are not available in any accurate form.

Comparison of Total Complaints to Total Market Share



From 1 December, 1993 to 30 November, 1994

Explanatory Notes

During its first twelve months of operation, the TIO received 19,525 calls on the 1800 062 058 free call service and 935 written complaints. Complaints were also received on our local telephone number and via personal visits by complainants. A telephone typewriter (TTY) service is available to receive complaints from those with a speech or hearing impairment.

All statistics quoted within the Annual Report are derived from information entered into the TIO's Complaints Management System (CMS) database and the Automatic Call Distributor Management Information System (ACD-MIS) database.

"Complaint handling functions are now emerging as a prime micro-reform agenda issue."

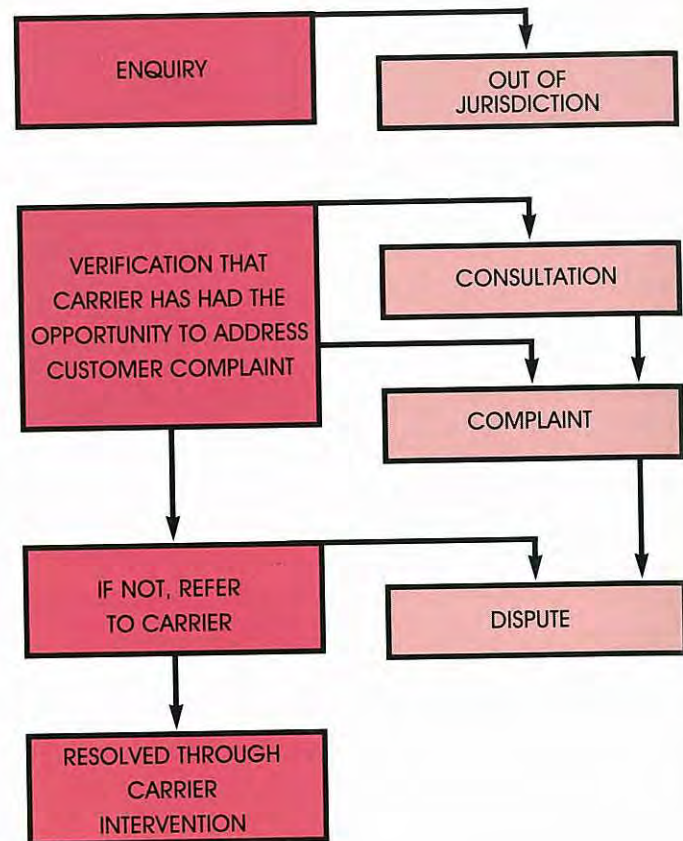


It is important to note that whilst all written complaints are registered and assigned a case number in CMS, not all telephone calls are necessarily entered into the database or assigned an individual case number. Those calls not recorded on CMS include:

- General enquiries about the TIO Scheme and / or requests for information about the Scheme - these types of enquiries may be from the media, consumer and community groups, Members of Parliament, students, interested members of the public, employees of the carriers, or potential complainants seeking clarification about the jurisdiction of the TIO;
- Requests from the media for interviews and / or comment from the Ombudsman;
- Follow up calls from complainants who have already lodged a complaint;
- Calls in error - since information about the TIO was included prominently in all telephone directories, there have been many calls from people seeking information or assistance such as call charges or operator assistance. In most cases, it would appear that callers ring the first number they see and mistakenly interpret the number as a general enquiries service. This may lead to a modification in the content or placement of information on the TIO Scheme in future directories;
- Calls received on the TIO's answering machine and for which no message is left by the caller.

All written enquiries / complaints and calls for which it is decided a case is to be raised, are entered on CMS and assigned a case number. 10,624 cases have been recorded on CMS from 1 December 1993 to 30 November 1994.

Each case is recorded as either pertaining specifically to one of the carriers (ie. Telecom, Optus or Vodafone) or as non-specific to any particular carrier.



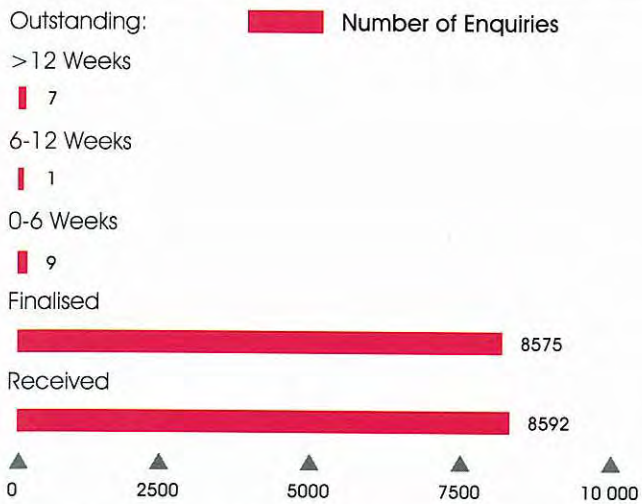
Enquiry

An Enquiry is raised when a matter is able to be handled without the need for further action by the TIO. The majority of Enquiries are raised when a customer contacts the TIO about a problem with a carrier, but has neither previously raised the matter with the carrier nor contacted the appropriate complaints area within the carrier (in the case of complaints relating to Telecom, complainants are referred to Telecom's Customer Help Centre). When a complainant is referred back to the carrier, they are advised to contact the TIO again if the carrier is not able to satisfactorily resolve the matter.

It is significant to note that in our first full year of operation 4,742 (55.2%) Enquiries have been referred back to a carrier in the first instance. It is anticipated this percentage will decrease as awareness of the Scheme, and as the TIO's role as an office of last resort, develops.

Other matters raised as Enquiries include calls seeking clarification of policy or procedures of the carrier or the industry, or calls which may be out of the jurisdiction of the TIO. Enquiries are generally able to be resolved during the initial contact.

Time Frame of Enquiries Received and Finalised

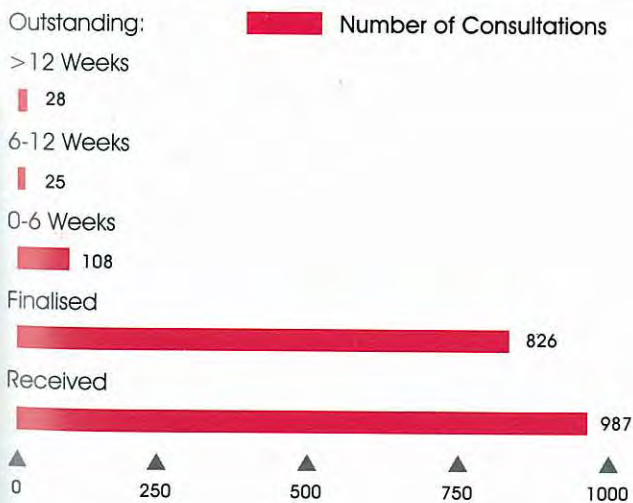


From 1 December, 1993 to 30 November, 1994

Consultations

After the TIO had been in full operation for two months, it became evident that an adjustment to the classification system of Complaints and Enquiries was required. Experience indicated that a significant proportion of cases fell, in timing and in cost, between the categories of Enquiries and Complaints and it was therefore recommended that consideration be given to the creation of an additional category of 'Consultation'. Carriers are given 14 days within which to resolve a Consultation.

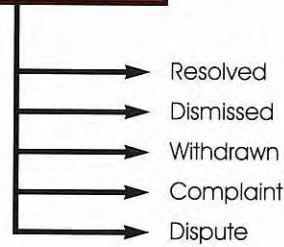
Time Frame of Consultations Received and Finalised



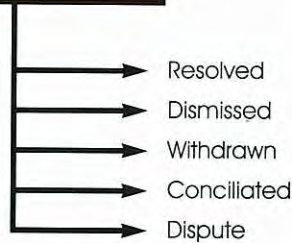
From 1 December, 1993 to 30 November, 1994

The Resolution Process

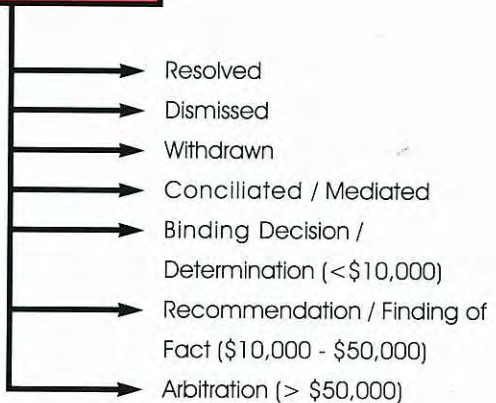
CONSULTATION



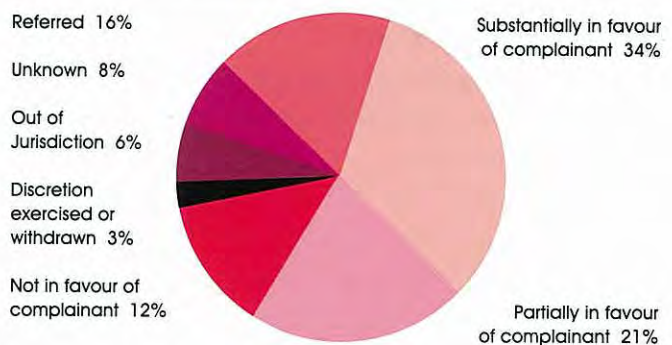
COMPLAINT



DISPUTE



Outcome for Consultations on Finalised Cases



From 1 December, 1993 to 30 November, 1994

"Ours is very much an open access, one stop, customer friendly clearing house for legitimate complaints and disputes."

Complaints

A Complaint is a statement of dissatisfaction dealing with a telecommunications service which is within the TIO's jurisdiction and has not been resolved to the satisfaction of the consumer.

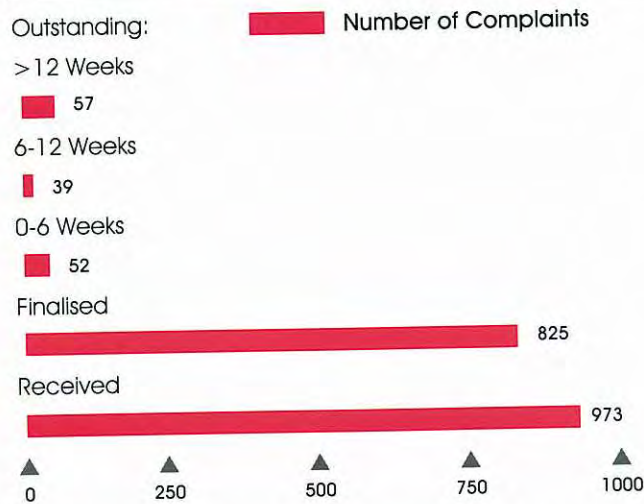
A Complaint must have arisen from events which became known to the complainant less than one year prior to the Complaint being made.

An Enquiry becomes a Complaint where:

- the matter relates to one of the carriers;
- the matter is within the jurisdiction of the TIO;
- the relevant carrier has had a reasonable opportunity to resolve the Enquiry; and,
- the consumer is not satisfied with the outcome or the way in which the carrier has attempted to resolve the matter.

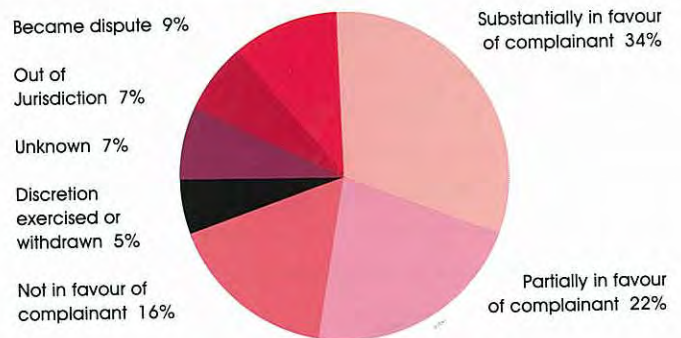
Carriers are given 28 days within which to resolve a Complaint.

Time Frame of Complaints Received and Finalised



From 1 December, 1993 to 30 November, 1994

Outcome for Complaints on Finalised Cases



From 1 December, 1993 to 30 November, 1994



Keyword Classification

All Consultations and Complaints which are entered on the CMS database are assigned one of 16 primary key words (Keywords) to describe the main content of the complaint. Secondary Keywords are also used to further clarify the complaint. However, not all Enquiries are given a Keyword classification.

The 16 main Keywords are, in part, based on the main areas of jurisdiction of the TIO. In alphabetical order, the main Keywords relate to the following:

Basic Service

900 Enquiries	104 Consultations	68 Complaints
---------------	-------------------	---------------

Basic Service covers issues related to overall standard of service, generally within Telecom's Public Switched Telephone Network (PSTN). For example, enquiries relate to exchange upgrade (to enable itemisation of timed calls, access to Optus, FlexiPlans, Easycall, etc.). This is also a miscellaneous category which includes issues such as zoning and charging, number allocation and introduction of the new national numbering system.

Almost all the cases in this category are addressed by explaining the relevant policy or legislation covering the issue of concern.

Billing

2,920 Enquiries	358 Consultations	456 Complaints
-----------------	-------------------	----------------

By its nature, the telecommunications industry generates many queries from customers in relation to billing. It is important to recognise, however, that a high level of billing complaints does not necessarily indicate widespread errors or inaccuracies related to charging for metered calls, itemised calls or rental / access charges.

Many complainants believe that metering of calls is not accurate, in particular for local calls billed by Telecom where there is no itemisation of individual calls.

Other factors, such as faults associated with the operation of a service (crossed lines, transposition of lines, faulty customer premises equipment), and the way in which a complainant's problems are initially handled by the carrier, are also a source of dissatisfaction.

The most difficult complaints to resolve are those where customers have kept their own record of calls made and these do not match the documents provided from carrier testing.

An argument from complainants is for placement of a metering device at the customer's premises. A comparison is often drawn by complainants that meters for all other services are located at the point of use. Technical reasons for not providing a call meter at a customer's premises relate to the fact that call metering is at the exchange, not at the handset.

Other Billing matters raised relate to individual itemised calls which may be denied, or the duration queried; requests for a review of a perceived unreasonable extension of time to pay an account; misunderstanding of the way in which call diversion charges are applied; alleged unauthorised use of Telecard; and delays in charges being brought to account.

Carrier Selection

369 Enquiries	53 Consultations	28 Complaints
---------------	------------------	---------------

This category relates to Telecom and Optus only as carriers of long distance (non-mobile) calls; either in relation to problems associated with the 'Dial-One' option for selection of Optus (in pre-Ballot) areas; non-receipt of Ballot information or claims that the customer has not been switched / connected to the carrier voted for in the Ballot; and delays in processing requests for a change of long distance carrier from Telecom to Optus (or vice versa).

A number of cases relate to customers who are connected to Optus or Telecom and then either change address or telephone number, and only when the next bill is received realise that they are no longer connected to their preferred long distance carrier.

"We aim to empower customers to be positive participants in the new information age."

"Customers now have an opportunity to have their grievances addressed by way of a free, alternative dispute mechanism."

It appears that a customer's preference in this area may not always be sought when orders are taken for new or altered telephone services.

Credit Control

325 Enquiries	45 Consultations	30 Complaints
---------------	------------------	---------------

In the case of 'live' services, this classification includes requests for security payments (prior to connection of a service); restrictions such as application of access barring; increased billing frequency and restriction to incoming calls only. A significant number of cases also relate to customers being refused service due to accounts in the customer's name which the carrier's records indicate as unpaid. In some cases, these unpaid previous accounts may date back to up to six years. The TIO is concerned that in such cases where the customer disputes that the account belongs to them, the onus appears to be on the customer to provide proof that they did not live at a certain address at a certain time, or are liable for the account in question.

The question of Telecom's decision in some cases to bar a service to local calls only, has been challenged by customers on the basis that such a decision effectively bars them from access to services offered by Optus.

In a small number of cases involving mobile phones, the issue of a carrier refusing to 'release' a mobile phone Electronic Serial Number (ESN) for use has arisen.

Customer Premises Equipment

188 Enquiries	11 Consultations	8 Complaints
---------------	------------------	--------------

This category covers complaints relating to telephone handsets; small business systems (such as Commander); facsimile machines and PABX systems. Cases in this category are referred to the Office of Fair Trading or the Trade Practices Commission. However, in a small number of cases a complaint may be pursued with the carrier on the basis of staff attitude / misinformation, service, maintenance, billing or fault issues which are primarily associated with a customer's telephone equipment.

Faults

881 Enquiries	88 Consultations	124 Complaints
---------------	------------------	----------------

Cases in this category primarily concern faults within Telecom's Public Switched Telephone Network. Areas of concern to complainants are delays in repairing faults and recurring similar faults. A high proportion seem to relate to older type exchange technology, and congestion in areas outside capital cities. In most cases, complainants are referred back to the carrier to request action or consideration of a rebate, if a delay is outside the carrier's stated target for the restoration of service.

Land Access

106 Enquiries	14 Consultations	36 Complaints
---------------	------------------	---------------

Land access cases are generally associated with cabling installed on private land. A small number relate to the construction of mobile telephone transmission towers or the installation of facilities on or near a complainant's land which may cause inconvenience or prevent a landowner from fully utilising his or her property.

The majority of cases in this category relate to inadvertent damage to a cable, and the resultant cost of repair which the complainant is asked to cover. As Telecom has by far the most cable in the ground, the majority of the cases in this category involve Telecom (89.6%).

Complainants often argue that if there is no indication that a cable is in the vicinity, it is therefore unreasonable to request that the full cost of cable repair be borne by the person who accidentally causes the damage.

Mobile

682 Enquiries	71 Consultations	43 Complaints
---------------	------------------	---------------

Congestion, call drop outs and crossed lines are the source of the majority of mobile phone complaints.

Many have expressed concern at a perceived deterioration in the analogue mobile network and argue that the standard of service is less than that provided in the past. A common question asked is 'Why are more analogue units being sold when the current network is acknowledged as growing too fast for the carriers to keep up with the demand for coverage?'

More recently, there have been a number of complaints about alleged misleading information about coverage of the digital networks. A number of customers claim to have purchased a digital mobile phone, only to find that there is not yet adequate coverage in the area where they live. Others claim that promised features such as messaging facilities are not available as advertised.

The TIO also receives many calls from customers relating to faulty handsets or alleged misinformation provided by mobile phone dealers. In addition, customers are concerned about signing a contract which locks them to a particular carrier for an extended period.

From a billing point of view, a number of complaints relate to charging for short duration calls, in many cases for calls which are claimed to have been unsuccessful.

A privacy related issue from complainants is that although a mobile service may not be listed or advertised, calls are still received from representatives of carriers other than that to which the customer is connected, which try to persuade the customer to change carrier. 'Churning' may be seen as a direct result of competition, but customers receiving many of these calls find the practice intrusive and inconvenient.

There have been surprisingly few complaints relating to the proposed phasing out of the analogue network.

Operator

95 Enquiries	4 Consultations	9 Complaints
--------------	-----------------	--------------

This category includes complaints associated with telephone operators within the carriers and involves matters such as provision of incorrect information or inconsistency in the provision of service.

Privacy

902 Enquiries	78 Consultations	69 Complaints
---------------	------------------	---------------

Cases in this category fall into three specific areas; nuisance calls, silent lines and alleged release of customer information.

Nuisance Calls: The primary role of the TIO in nuisance complaints has been to ensure that complaints to the carrier are handled consistently and compassionately. Requests for tracing are often received and procedures are in place with carriers to ensure the best prospect for satisfactory resolution.

We have been striving to ensure consistency of approach with regard to such requests and likewise, carrier implementation.

Silent lines: Silent line complaints mainly entail alleged release of a customer's silent number, and the printing of this information in the directories. The advice to the majority of complainants regarding silent lines is a clarification of what a silent line entails. Many customers, concerned about calls from telemarketing firms, are referred to the Australian Direct Marketing Association.

Alleged release of information: This relates to the alleged release of customer information by a carrier or an employee of a carrier. Complaints of this nature are most serious and where information suggests that a carrier or an employee of a carrier, may have obtained access to, or released confidential information about a customer, efforts are made to thoroughly investigate the matter.

Public Telephones

56 Enquiries	7 Consultations	3 Complaints
--------------	-----------------	--------------

These issues involve the location, removal or vandalism of public telephones. As many of these issues relate to Universal Service Obligation (USO), they are generally referred to AUSTEL.

Service Provision

446 Enquiries	65 Consultations	36 Complaints
---------------	------------------	---------------

Complaints in this category generally involve the delay in provision of a new telephone, failure of the installation staff to keep appointments or failure to provide service by a pre-arranged date.



Staff

184 Enquiries	16 Consultations	11 Complaints
---------------	------------------	---------------

This involves allegations that individual staff have been rude or unhelpful.

Charges

136 Enquiries	21 Consultations	7 Complaints
---------------	------------------	--------------

This relates to complaints about the level of particular charges, in particular the level of Telecom's standard \$50 intact service connection charge, and in cases where a service is not disconnected or reconnected and only a meter reading appears to be required.

The TIO is only able to assist complainants where a charge has not been in accordance with the standard approved charge rate, regardless of whether the TIO considers the particular charge is reasonable and fair.

White Pages

303 Enquiries	50 Consultations	40 Complaints
---------------	------------------	---------------

White Pages complaints involve matters such as incorrect or omitted White Pages directory entries, or information provided by Telecom's Directory Assistance Service.

Yellow Pages

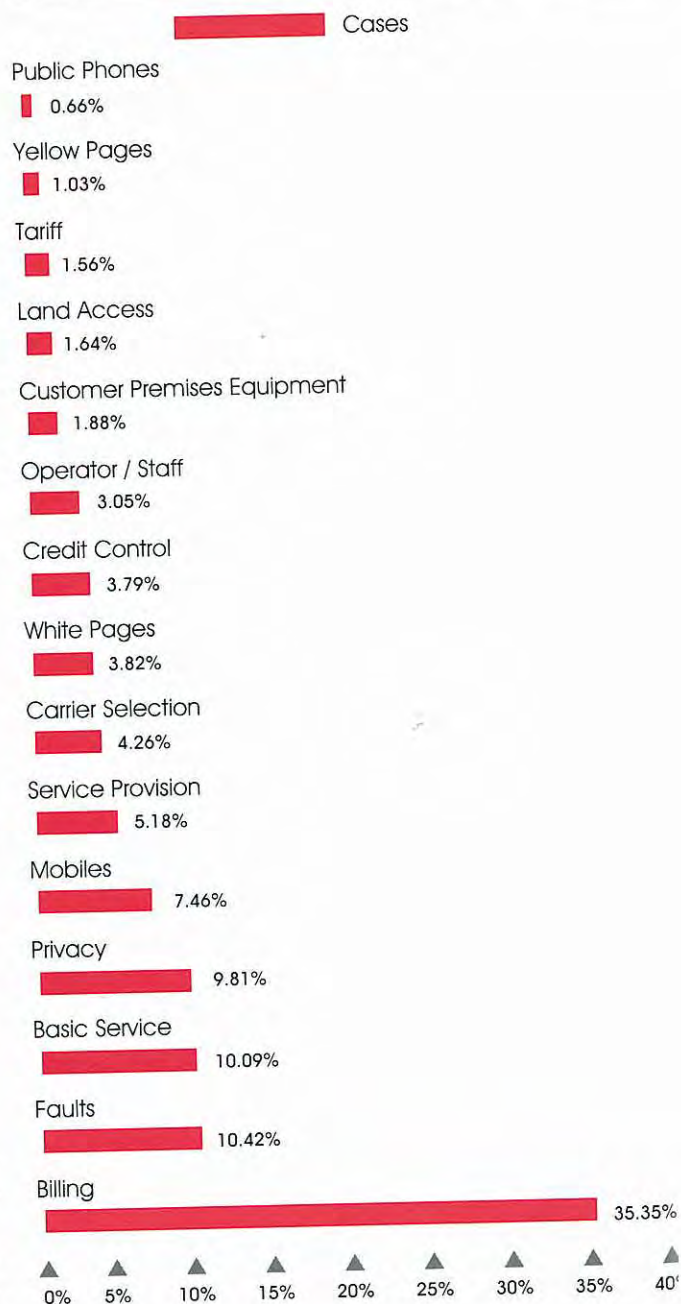
99 Enquiries	1 Consultation	5 Complaints
--------------	----------------	--------------

The TIO currently has no jurisdiction over Yellow Pages matters. Complaints received concerning Yellow Pages are referred either to Yellow Pages management or, in some cases, to the Commonwealth Ombudsman.

Profile of Calls

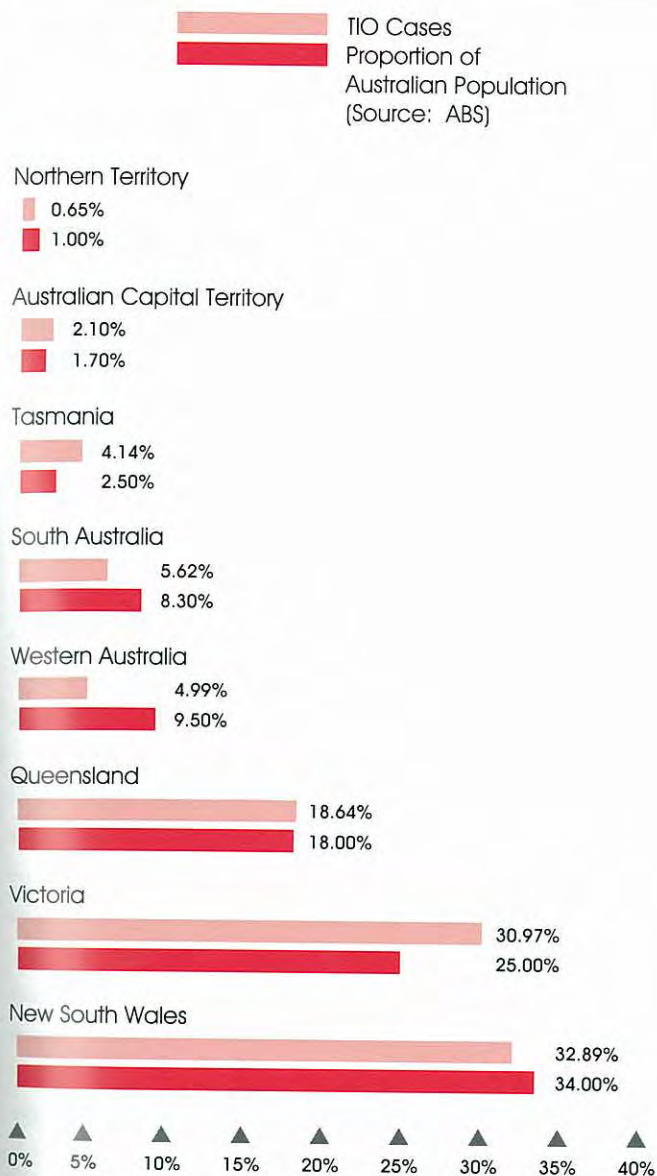
Out of the 19,525 calls through the 1800 freecall telephone number and the 935 complaints received by mail and fax, 10,624 cases have been generated. A further breakdown of the keywords describing each case is as follows:

Australia-Wide Cases Analysis by Keywords

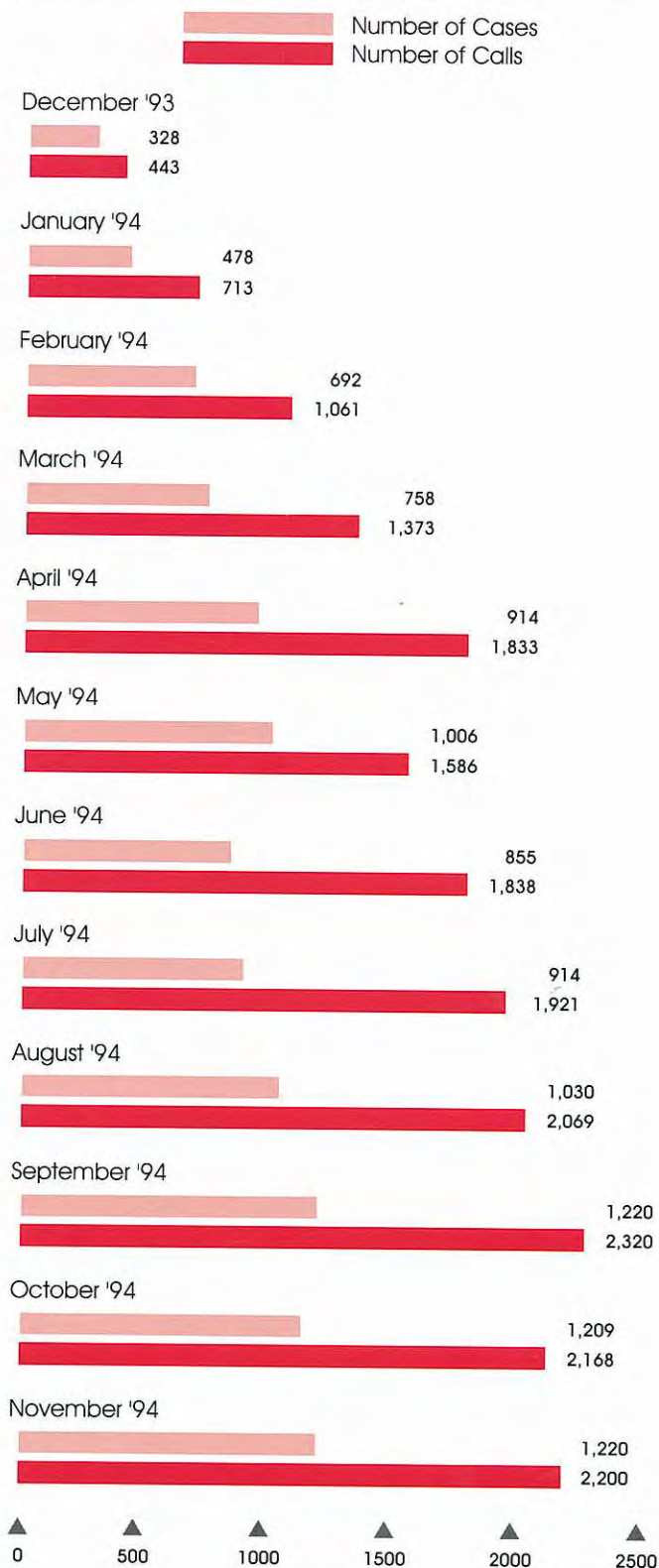


From 1 December, 1993 to 30 November, 1994

Geographic Distribution of Cases in Comparison with State Population



Monthly Case and Call Statistics



Total Cases: 10,624

Total Calls: 19,525

An Emerging Issue - Privacy

Privacy

An analysis of the profile of

telecommunications indicates that privacy issues are and will continue to become, extremely important to our customers. Over the past year we have had discussions with the Privacy Commissioner, other industry groups and the Australian Direct Marketing Association (ADMA) about the issues involved. In the future, it may be considered to consider adopting Privacy Impact Statements when new technologies are being introduced. The first application of such new technology was the Caller ID Trial conducted in Wauchope, NSW, which was closely monitored by both consumers and the telecommunications industry.

The issue of privacy occupies the minds of telecommunications users and the public in general as evidenced by the 9.8% enquiries / complaints received to date on privacy matters. These complaints mainly involve the disclosure of silent numbers, nuisance calls, telemarketing, and 'churning'.

The TIO has been active in ensuring the general public has confidence that their privacy and information are protected through the auditing of guidelines and by representation on Privacy Committees.

Privacy Guidelines on Voice

Monitoring: An independent audit by the TIO was undertaken of Telecom's new internal privacy guidelines on voice monitoring prior to their release earlier this year. Comments were also sought from the Privacy Commissioner, the Law Council, AUSTEL and others. The guidelines main features are:

- prior consent of the customer;
- a continuing overview and regular, independent auditing of the process;
- all equipment used will carry *pip tones* to indicate to both parties to a call that voice monitoring is taking place.

Given that all carriers support the guidelines the TIO believes they form an industry standard that, in time, may form the basis for a Privacy Code being part of carrier licence conditions under the Telecommunications Act.

Proposed Privacy Guidelines for Australian National Relay Service (TTY): TTY is a device that transmits voice / typed text over a standard telephone line and which provides access to the telecommunications network for deaf, hearing / speech impaired people. A set of privacy guidelines has been drafted which will legally bind the relay

"Privacy is an inherently complex issue that defies glib or simple explanation."

operator and relay officers, who speak and type conversation / messages between hearing people or speech / hearing impaired people or vice versa. Because the relay officer actually participates in these calls, the content must be kept confidential. The TIO, as well as the Privacy Commissioner, AUSTEL and others, will be commenting on the proposed guidelines.

Guidelines for Answer Call

Monitoring: The TIO has played an active part in checking the procedures and guidelines proposed by Telecom regarding the use of tape recorders for the recording of test calls used to quantify and analyse the level of false answer signals in the Public Switched Telephone Network. The reason for proposing the guidelines is that, occasionally a test call may inadvertently cut across a conversation in progress on the network. We are satisfied that any such incidents are certified and the voice transmission is erased and not re-used.

Guidelines for Use of Tape

Recordings in Fax Fault Service: Telecom recently prepared "*Guidelines for Use of Tape Recordings in Fax Fault Service*" which were given to the TIO, the Privacy Commissioner and AUSTEL for approval. Prior to any tape recordings being made, Telecom must obtain the customer's consent in writing. The testing is a standard procedure which requires the customer to ring the test desk and send a test facsimile transmission to the test desk which records the process and related information. This technical information is then replayed to an expert testing officer to diagnose the fault. Customers are notified of the results and completion of the test and all tapes are then erased.

Proposed Guidelines for Staff Coaching and Training and Pay by Phone Services: These proposed guidelines have been prepared by Telecom for staff who undertake monitoring or recording of telephone conversations for staff coaching and training, or purposes such as the recording of pay by phone transactions.

The proposed guidelines have also been made available to AUSTEL and the Privacy Commissioner. We are yet to conclude our consideration of this matter.

AUSTEL Privacy Advisory

Committee: The inaugural meeting of AUSTEL's Privacy Advisory Committee was held in October. The Committee, which was announced by the Federal Minister for Communications and the Arts, and is chaired by AUSTEL, includes a consumer representative nominated by the Minister for Consumer Affairs, as well as representatives of the telecommunications industry, the Privacy Commissioner and the Telecommunications Industry Ombudsman. The Terms of Reference of the Committee are as follows:

"The AUSTEL Privacy Advisory Committee is established by AUSTEL, under section 53 of the Telecommunications Act, 1991.

The Committee is established to assist AUSTEL in carrying out its functions generally and in particular:

1. to provide advice on privacy matters as they relate to the interests of consumers of telecommunications services.
2. to identify general privacy principles applicable to the telecommunications industry and to develop specific guidelines where necessary.
3. (a) to provide advice on proposed codes of conduct to ensure they meet appropriate standards and principles.
(b) to provide advice to relevant industry and community groups in developing codes of conduct which reflect the general privacy principles and specific guidelines.
4. to make recommendations concerning appropriate privacy principles, including the principle of 'informed choice' about the introduction of new technologies and specifically the use and re-use of personal data."

The first concerns of the Committee relate to silent telephone numbers and the necessity for this information to be properly safeguarded. The Committee will also refer to the issues of Caller ID and telemarketing. Caller ID enables a person receiving a call to identify the person making the call before the receiver is picked up. Telecom have undertaken recent trials of caller ID in Wauchope, NSW. Telemarketing concerns the use of phones by direct marketing operators using sequential automatic dialling machines and recorded messages.

Churning: Churning is the practice of persuading phone subscribers to switch from one carrier or provider to another. At present, churning is occurring on both mobile, residential (including silent) and business numbers. Numerous complaints received by the TIO office related to carrier choice during the ballot. Consumers received letters and questionnaires following the ballot asking why they voted for the 'other' carrier. Following a request by the TIO office, and in

response to the views of their customers, one carrier has now taken steps to limit communication only to customers who had long distance flexi-plans in place at the time they switched carriers.

Example: *A complainant who recently purchased a mobile phone was called 17 times within 10 days by a carrier in an effort to persuade him to switch carriers. This is a common complaint, particularly from tradespeople who purchase a mobile phone for business use and receive constant calls from the opposition carrier offering incentives to churn.*

Silent Lines: Unfortunately, having a silent number only means there is no record of the listing in white pages and directory information. Telephone users still need to be aware if they make a reverse charge telephone call that the silent line phone number will be listed on the recipient's telephone account. Another area of concern is unwanted telemarketing and market research inquiries being directed to silent numbers. Having a silent number does not exclude them from direct-mail marketing. Some of the reasons for this could be either:

- telemarketers using randomly generated number selection;
- telephone subscribers purchasing a raffle ticket and writing their phone number on the butt; or
- registration with a mail order company.

Concern has been expressed regarding registration with the 'Fly-Buys' scheme. The carriers have confirmed they will only be disclosing the membership number and accumulated number of 'Fly-Buys' points to the 'Fly-Buys' administration company. All other personal information will remain confidential.

Other complaints involve the disclosure of a silent number through directory enquiries. There have been some instances where a staff member of a carrier has accessed the silent number for personal reasons. The TIO and the AUSTEL Privacy Advisory Committee are recommending increased security measures within the carriers to deter unlawful staff access.

Nuisance Calls: Nuisance calls can occur in many ways. New residential subscribers can be allocated previous business numbers (e.g. a closed pizza business) and receive continuous calls for that business.

The release of silent line information by a carrier often precedes subscribers receiving nuisance calls.

Many of the complaints received regarding nuisance calls relate to consumers receiving calls from fax machines. This can be extremely annoying as the fax machine is usually on automatic redial and will ring non-stop until the person sending the fax realises they are calling a wrong number.



Carriers usually trace nuisance calls by connecting a fax machine to the line on which the calls are being received.

However, there is some inconsistency with the procedures undertaken by a carrier to trace nuisance calls and the TIO is in the process of solving this. Nuisance calls from public phones cannot be traced at all.

Example 1: A recent complaint related to a business receiving approximately 100 calls per day from a fax machine. In order to trace the caller, the carrier set up a fax machine at the complainant's premises. It has since been established the fax caller is a large government department which has listed the phone number into a computer directory and the faxes are computer generated. The faxes are confidential and are being generated on a national network. The government department said they would try and fix it but many months later nothing had happened. The carrier cannot do anything further as they have traced the call and it is now outside the jurisdiction of the TIO and the carrier.

Example 2: Another complaint was from a consumer in a large country town who said he was receiving nuisance calls at regular intervals, i.e. 11 p.m., 11.45 p.m. in one week. He advised that no-one was speaking, but that the calls were annoying nevertheless. In the second week, the calls were at 6.45 a.m. and 7.15 a.m. which he said was not a problem as he was an early riser. When it started occurring on a Sunday morning he complained to the TIO. The TIO requested Telecom put a trace on the calls. The calls were traced to a Coke machine and whenever the machine was running low it was programmed to ring headquarters for a refill. When the number was programmed into the machine it was one digit out. The Coke distributor was contacted, the customer advised and he reported that he was very happy with the outcome, and that he was now sleeping soundly.

Telemarketing: A high proportion of the privacy complaints received at the TIO office relate to telemarketing and market research inquiries, and over half of these relate to silent numbers. The Australian Direct Marketing Association (ADMA) estimates that telemarketing will soon be a \$1.25 billion per year business. There are several implications involved in telemarketing. One implication is,

if a consumer calls a 0055 or 0800 number to buy a product which has been advertised on a television home shopping channel, the consumer not only receives the goods ordered, but then subsequently receives numerous other telemarketing calls and direct mail promotions about similar products.

Most telephone subscribers are also not aware they can request the carrier to not include them in market surveys. Complaints received at the TIO office regarding telemarketing are referred to ADMA.

Example 1: A consumer received a telephone call from a representative of a market research organisation seeking his view as to the quality of service provided by a transport organisation in relation to an enquiry he had made some weeks earlier. The consumer considered his privacy had been breached as others in the household could have answered the call from the Research organisation and learned of confidential enquiries that had been made.

Example 2: A complainant made a number of overseas telephone calls to his family who were travelling overseas. The following day, the complainant was contacted by a market research organisation on behalf of a carrier. The details of the complainant's calls had been made available to the market research company that was conducting a survey on overseas call quality. The complainant had not been advised he was part of a survey group, and also had not been given the opportunity to opt-out of the survey. The complainant considered the market research survey to be a gross invasion of his privacy.

'Party Lines': Many people are unaware of the high costs involved when using 'Party Line' to talk to people on International Direct Dialling (IDD). Some recent TV commercials and newspaper advertisements fail to make it clear that 'Party Line' can attract IDD call costs. The TIO has raised the issue with the Advertising Standards Council of Australia who have previously made determinations requiring both print and television advertisements for these services to be clearer as to the call costs involved.

The TIO has also successfully referred complaints regarding 'Party Lines' to the Advertising Standards Council of Australia who, after viewing an advertisement, felt it was misleading and breached Clause 7 of the Advertising Code of Ethics which states 'Advertisements shall be truthful and shall not be misleading or deceptive'. The complaint was upheld and access to Sweden via Australia has since been withdrawn by Telecom.

Dispute Approach

Mediation and the Alternative Dispute Resolution Role in the Scheme

Under the definitions used by the TIO a dispute exists when the participant (that is the carrier) has had sufficient time and opportunity to consider a complaint but the complainant is dissatisfied with the outcome or the way the participant has attempted to resolve the complaint. However, for a complaint to proceed to dispute status, the TIO must also be convinced that the complaint is neither frivolous nor vexatious and is made in good faith. As well as this, the TIO must also determine that the complainant is sufficiently interested in pursuing the complaint to the dispute stage and that further investigation is warranted.

Should all of these conditions be met, the TIO will re-classify the complaint as a dispute. The TIO has also classified as disputes, a number of cases where the carrier has been asked to provide information so that the TIO can seek to resolve the complaint and where the carrier has failed to do this in reasonable time and after some warnings. One measure of the success of the TIO's enquiry / complaints processing system is that less than 1% of enquiries have become disputes.

When a case is classified as a dispute the TIO writes to the complainant and the relevant carrier to notify both of the re-classification. The carrier is asked to provide all relevant information on the case within 21 days and the complainant is asked to provide any additional information he or she believes is relevant to the case.

On several occasions, the carriers have sought to resolve disputes at this stage by making offers, usually termed business judgements. This is encouraged by the TIO which is of the view that if an amicable settlement can be reached between the two parties, it is in the best interests of the customers as well as the carriers as in most cases, the parties will continue to have a business relationship after the settlement is concluded. However, the TIO is anxious to ensure that complainants do not feel at any stage that they must enter into a settlement and they are advised that, if they are at all uncertain about accepting the carrier's offer in settlement, they should advise the TIO and we will continue with other steps in the dispute resolution process.

Steps in the dispute resolution process include reviewing all of the available information and seeking more from the carrier and the complainant if this is required. Additional independent specialist advice may be required to assist the TIO to assess compensation for things such as property damage, personal damage or business losses. To date, the TIO has sought independent advice from legal firms, engineers and accounting firms for these purposes. The TIO may also direct the carriers to carry out additional testing on telecommunications facilities.

The TIO will hold separate discussions with both parties and may arrange a meeting or meetings with both parties to try to achieve conciliation. In several instances this has involved travel by the Ombudsman or Deputy Ombudsman, to meet with complainants or to inspect damaged property.

If conciliation is achieved, the case will be closed after the TIO has ensured that the agreement is acceptable to both parties.

If conciliation is not achieved, there are several options open to the TIO. The Ombudsman may make a binding decision on matters not exceeding \$10,000 in value. The decisions may:

- direct that compensation be paid to the complainant;
- direct the carrier to act to remedy the situation that has given rise to the dispute; or
- dismiss the complaint.

To date, 11 of these decisions have been made. A complainant has 21 days in which to decide whether to accept the TIO's decision. If the decision is accepted by the complainant, he or she must release the carrier from all other claims about the matter and the carrier is bound to accept the decision and carry out the TIO's direction. If the complainant does not accept the decision, the carrier is not required to carry out the decision and the complainant is free to pursue the matter in any other forum.

"The TIO is an avenue of alternative dispute resolution."



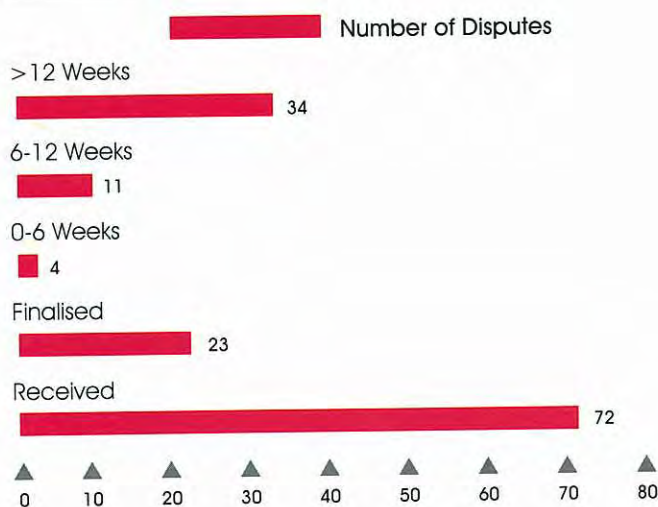
"The TIO's prime objective is the elevation of customer issues within the industry."

Where the value of the matter in dispute exceeds \$10,000 but is less than \$50,000, and the matter has not been successfully conciliated, the TIO may make a recommendation about compensation or remedial action. It is then up to the carrier to decide whether or not to implement the TIO's recommendation. No recommendations have yet been made by the TIO.

Where a complaint involves an amount in excess of \$50,000, the Ombudsman may make findings of fact but shall make no determination, direction or recommendation about compensation or other remedial action. In such circumstances, and if the carrier and the complainant agree, the Ombudsman may exercise arbitration powers in respect of the dispute.

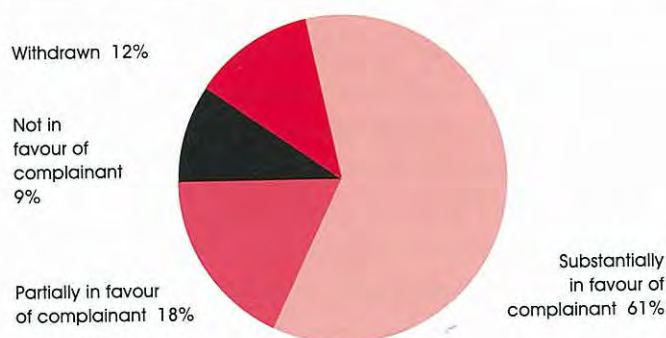
The Council of the TIO is currently considering general arbitration rules that may apply to TIO arbitration processes and agreement has been reached between complainants and the relevant carrier in several cases that arbitration may proceed when these rules are finalised.

Time Frame of Disputes Received and Finalised



From 1 December, 1993 to 30 November, 1994

Outcome for Disputes on Finalised Cases



From 1 December, 1993 to 30 November, 1994

Disputes - 1993-94 & Illustrative Case Notes

Billing Disputes

Billing disputes make up 36% of all disputes. In several instances billing issues have been classified as disputes because carriers have been slow to respond to the TIO's requests for information, rather than because of the intractable nature of the issue. However, in some instances, especially where extensive testing of the complainant's service is required, the TIO has been prepared to extend the deadlines for provision of information by the carriers in the interests of finding the fault to enable the service to be repaired. This has caused some delay in finalising billing disputes but has led to more sustainable long term relationships with customers, because mediated solutions rather than directed solutions have been able to be achieved.

However, where no response is received from the carrier in a reasonable time the TIO has, as noted above, classified these as disputes. In one instance a carrier's failure to respond to a billing complaint over a prolonged period led to a determination that the customer deserved a resolution in a reasonable time. As no information had been provided to the TIO by the carrier a decision was made on the information available to the TIO, this was simply the complainant's claim that she had been overcharged for calls. The carrier was directed to credit the complainant's account with the amount she claimed had been erroneously charged to her.

Another aspect of billing disputes to which the TIO would like to draw attention is the importance of customers retaining their receipts. Comparison of two cases brought to the TIO in the last year provide an excellent illustration of this. In one instance a complainant claimed that his telephone account had been paid at an office which was an agency of the carrier. The carrier claimed that the account had not been paid and sought to recover the amount from the complainant. He was unable to produce his receipt and, as the agency records did not indicate that he had paid, the TIO was not able to find any reason to direct the carrier to waive charges.

In another instance, a complainant paid his telephone account. The complainant claimed that the account was paid in full with a combination of cash and a cheque made over by him to the carrier. A receipt for payment of the full amount of the account was issued to the complainant. At the carrier office where the payment was made an alteration was made to the customer's account payment record

after the complainant had left the office because the staff member who had served the customer believed that she had entered the payment incorrectly and that the payment had been only a partial payment rather than a payment in full. No attempt was made to contact the customer to advise him of the change or to issue him with a substitute receipt. The carrier claimed that there was therefore an amount outstanding on the account and sought to recover the amount from the complainant. As the complainant was able to produce his receipt, the amount on the receipt was accepted by the TIO as a valid indication of payment and the carrier agreed to cease recovery action.

One further aspect of billing disputes is of concern to the TIO. This is the situation where customers, who have been receiving itemised accounts which separate STD and IDD calls from local calls, relocate and receive accounts which include all direct dial calls under a single line entry describing them as metered calls listing these separately from operator connected calls. Several elderly customers have been confused by this and this confusion has been exacerbated by carrier information sent to these people offering special prices for STD and IDD calls, thus implying that these are separately priced. This material, when read carefully, makes clear that these special rates are available only where the facilities to account for these separately exists. The TIO would argue that carriers should be more sensitive in their distribution of advertising material to this type of customer and that local offices, when faced with billing complaints where the customers have informed them that they have recently relocated, should check whether different billing information may be the source of confusion.

A final concern in the field of billing disputes is where diversions are connected to telephone services and customers are unaware that they will incur an extra cost for each diverted call. Customers who are unaware that they will be paying not only for their outgoing calls but also for each incoming call they receive via their diverter find that their telephone accounts inexplicably double over one or two billing periods. The effect may be gradual as more customers or friends find that they can contact people with diverted phones at times when they would in the past have spoken to an answering machine or received no answer. This problem is enlarged when the calls are diverted to a mobile phone as the diverted calls are charged at timed rates rather than at local call rates. This problem has been an element in several disputes brought to the TIO in the past year. Customers entering into arrangements to use diversions should read the material provided by the carriers about the diversion costs to ensure that they fully understand the extent of the costs before the arrangements are finalised.

Land Access

One of the most striking features of dispute statistics is the disproportionate representation of land access cases amongst disputes. Although land access enquiries represent only 1.64% of cases, they rise to almost 9% of disputes. The main reason for this is the extensive powers that the carriers have to access land.

Land access disputes dealt with

by the TIO have related to the actions of the carriers in laying cable across properties, facilities placed in front of suburban houses which limit or deny access to the owners, or situations where farmers have accidentally damaged telecommunications cables which cross their properties. These matters are more likely to reach dispute status because carriers have, and wish to maintain, extensive land access powers under the Telecommunications Act 1991. The Act gives carriers the right to construct a facility on, over or under any land; or attach a facility to any building or other structure for purposes connected with the supply of a telecommunications service.

The carriers are not required to pay compensation for the use of land and may enter on, and occupy, any land. They may fell trees, clear vegetation, make cuttings and excavations, erect temporary workshops and sheds and may level land or make roads. The Act contains no right of appeal against the carriers right to choose their own route for any cabling, nor does the fact that a cable is on a farmer's land give that farmer any right to rent for the portion of land that may be used, or protection against being charged for the repair of damage if the farmer damages the cable in the normal course of cultivating his or her property, even if the location of the cable is unmarked or unclear.

In making decisions about land access cases, the TIO cannot take away from carriers the rights given to them under the Act. The TIO cannot, therefore, prevent carriers from following the route they have chosen to take when laying cable across a farm or force a carrier to relocate a suburban exchange because it is unattractive to the local residents. In determining what, if any, action can be taken, the TIO relies on the sections of the Act which require each carrier, in exercising its rights under the Act to comply with the requirement of the Act that it take all reasonable steps to ensure that it causes as little detriment and inconvenience, and does as little damage, as is practicable.

If there is evidence that a person has suffered financial loss or damage because of anything done to property by a carrier under the land access provisions of the Act, the TIO can direct carriers to pay a reasonable amount of compensation. The TIO has also taken the view that the Act does not intend that property holders can be denied access to their land. Thus where a cable crossed the entire frontage

Credit Control

Only two credit control disputes have been raised with the TIO in the past year. However, the nature of one of these disputes is such that the TIO is of the view that action should be taken by carriers to prevent further recurrence.

A dispute raised with the TIO dealt with the case of a complainant who had used a card issued by one of the carriers which can be used in conjunction with a PIN number to make calls from phones other than the customer's home phone. The card was used, the customer claims, without his knowledge to make a large number of calls to 0055 numbers in foreign countries. The customer received, to his surprise, an account for over \$7,000 and immediately cancelled the card. The customer remains responsible for payment for these calls as his card was not reported as lost or stolen. The customer has indicated that, had he been advised of the mounting charges earlier, he would have cancelled the card as soon as he was aware.

In another case, a mother provided a similar card to her children so that they would be able to call home if they wished even if they did not have any money with them. One of the children let his friends know the PIN number and the family telephone account, when it was received some time later, showed a very large number of STD calls made by people who had been told the PIN number and other appropriate details in a network effect. Calls costing several thousand dollars had been made from all over Australia and charged to the account.

The TIO notes that it can be argued that the cards are not, strictly speaking, credit cards but it is the TIO's view that they operate in the same way and recommends that carriers should institute an arrangement which places an upper limit on the amount that can be charged to a card in a particular billing period. If at any stage in the billing period the credit limit is exceeded, the customer should be contacted by the carrier to verify that the customer is aware of the rate of call charges being accrued. This would not stop abuse of the cards but would, as with normal credit cards, alert customers to any irregularities before the amount charged to the card became excessive.

of a house block and the cable was unmarked, the TIO was of the view that the landowner could not have known about the cable when he purchased the land, and that the cable effectively denied him access to his land. The carrier was asked to pay the full cost of relocating the cable so that the landholder could make a driveway into his property.

In another case where three carrier facilities were located in the nature strip in front of a suburban house, the TIO's view was that these had been in place when the property was purchased and the landholders would therefore have been aware of their existence, and could foresee that they would have to be moved if a driveway was constructed onto the property. However, the TIO noted that the location of the three facilities effectively prevented any driveway from being constructed and thus denied the landholders access to their property. In this case the parties agreed to share the costs of relocation so that a driveway could be constructed.

Mobile Phones

The TIO has dealt with some disputes, particularly from small business customers who have changed their business operations to depend substantially on the use of mobile phones in the expectation that mobile phones will work just as well as the fixed phone network. In many instances this is not the case.

Mobile phones are a new technology and one based on radio communications rather than fixed wires and cables. The transmissions to and from mobile phones and the success rate at which users receive and make calls is not as reliable as the fixed network. It can be subject to interference from other radio communications installations or from the weather and as a radio communications service, it can be affected by interruptions to the line of sight to a transmitter such as tunnels, hills or some buildings, or by congestion when too many phones try to access the mobile service at the one time through a particular tower or other facility.

The effectiveness of mobile phones can also be impaired by usage patterns. Mobile phones used with a car booster are usually much more effective and have a greater range than those used without. A mobile phone stored in a customer's back pocket while he or she is driving is shielded by the customer's body and the car door and is thus less likely to successfully receive calls. Those left lying on the car floor or dashboard where the aerial is horizontal rather than vertical may also have poorer reception.

The TIO recommends that there be wider recognition of the limitations of mobile phones in the material distributed by carriers, especially the sales material that accompanies them.

Release of Customer Information

Privacy issues have been of particular concern to the TIO. Three disputes have raised particular problems which the TIO would wish to see addressed by the carriers.

In the first of the disputes, a carrier was asked to provide information under subpoena regarding a customer's account in relation to a court case involving the customer's estranged spouse against whom she had a restraining order. The carrier, in complying with the subpoena, provided all of the information available about the woman's account including her unlisted phone number, her address and her account payment details, all of which the woman had wished to keep from her estranged husband. Upon investigation it was found that the subpoena had only requested details of the calls made from the woman's telephone service and that the rest of the material had been released unnecessarily. The TIO would urge the carriers to exercise extreme care in release of information of this nature.

In another case, details of a woman's unlisted number were able to be elicited by a person against whom a restraining order had been issued following a violent attack on her property by manipulation of a carrier's fault reporting scheme. Similarly there have been allegations that unlisted numbers have been improperly accessed by carrier employees and used for their own purposes or divulged to others. The TIO recommends that carriers should implement as a matter of urgency a security system which tracks access to confidential information in their numbering records, both for the protection of their customers and also for the protection of their employees against groundless allegations.

Difficult Network Faults

The TIO has received some cases which have been raised to disputes in which it is claimed that difficult network faults have caused business losses. To date these have not been resolved. The TIO welcomes the development by one of the carriers, and the approval by AUSTEL, of a verification testing scheme for faults of this type. When this verification testing is in operation, the TIO believes that it will be able to be used in conjunction with the TIO's arbitration processes, to resolve these disputes.



"We see our role as being articulators of consumer interests."

White Pages

Several disputes have arisen because complainants have been deleted from White Pages directories and it has been claimed that this has led to business losses. In one case a businessman had a phone connected for the first time to a shed on a block of land on the edge of the town in which he operated his business. The phone he had connected was the same number he had always had, and until then it had been connected at his residence which was also in the same town. To compound the confusion, the businessman had always had the company listing in the phone book at the address of the block of land, even before the phone was connected there, rather than at his residential address.

The listing was in bold for his company with an additional non-bold listing for his residential address.

Because the phone was disconnected from his residential address, the carrier treated the transaction as a disconnection and the connection at the block as a new connection even though the name of the company, the address and the phone number in the listing remained the same. The businessman was not aware that he had to apply for a new listing and the listing was subsequently omitted from the White Pages Directory. The listing remained in the Yellow Pages Directory. The businessman made a claim to the TIO for some funds to assist him to overcome the absence of the White Pages listing.

He was offered compensation which would meet the cost of:

- having business cards distributed to all builders in the area;
- having sign boards erected at either end of the town;
- reductions in his phone account costs;
- additional advertising in the local press.

The TIO would recommend that in situations where phone arrangements are being made, both the carriers and customers act with care.

Connection Difficulties

Among the disputes currently under consideration by the TIO are several where delay in having phone connections made, has been claimed to have caused loss of business income, loss of business reputation and in one case, loss of an entire business. These cases have not yet been resolved.

In assessing some of these, the

TIO has sought the assistance of independent loss assessors to assist in calculating the losses delay in connection would have caused for a business based on detailed business records sought from the complainants. Some of these cases may be resolved by mediation, but it is expected that others will require binding decisions by the TIO and some will require arbitration.

Directory

Assistance Difficulties

In one dispute received and considered by the TIO, a complainant operating a restaurant claimed that a nearby restaurant with a very similar name to her own restaurant, was benefiting from her business because of the erroneous nature of advice offered by Directory Assistance. This case is still under investigation.

F
I
N
A
N
C
I
A
L
R
E
P
O
R
T

4.1

Financial Report

Income and Expenditure to 30 June, 1994*

	1994	1994
	\$	\$
Funds received from Participants		1,809,885
Other Income		6,043
Total Income		1,815,928
Operating Expenditure		
Audit / Accountancy Fee	26,300	
Bank Charges	3,001	
Books and Publications	5,562	
Computer Expenses	46,933	
Conferences / Seminars	2,595	
Consultants	216,516	
Depreciation	60,254	
Entertainment and Goodwill	5,440	
Fringe Benefits Tax	1,616	
Legal	53,295	
Maintenance / Insurance	6,928	
Marketing / Public Relations	159,380	
Other Expenses	3,353	
Payroll Tax	1,545	
Postage	9,259	
Premises: Rent / Outgoings	47,395	
Printing and Information Expenses	40,317	
Recruitment Fees	104,077	
Relocation Expenses	4,745	
Salaries	510,554	
Staff Amenities	4,723	
Staff Training	14,383	
Stationery	15,624	
Superannuation	21,050	
Telephone and Fax	43,548	
Travel and Accommodation	40,500	
Workcover	2,540	
Total Expenditure	1,451,433	
SURPLUS / (DEFICIT)		364,495

* Audited Financial Statements and Directors' Report for the Telecommunications Industry Ombudsman Limited have, in accordance with legal requirements, been filed with the Australian Securities Commission and are available for public scrutiny.

Balance Sheet as at 30 June, 1994

	1994
	\$
CURRENT ASSETS	
Cash	124,332
Receivables	89,333
Other	1,233
Total Current Assets	214,898
NON-CURRENT ASSETS	
Plant and equipment	255,988
Total Non-Current Assets	255,988
TOTAL ASSETS	470,886
CURRENT LIABILITIES	
Creditors and borrowings	95,034
Provisions	11,357
Other	—
Total Current Liabilities	106,391
TOTAL LIABILITIES	106,391
NET ASSETS	364,495
SHAREHOLDERS' EQUITY	
Retained Profits	364,495
TOTAL SHAREHOLDERS' EQUITY	364,495

Statement of Cash Flows for the Period Ended 30 June, 1994

	1994
	\$
	Inflows
	(Outflows)
CASH FLOWS FROM	
OPERATING ACTIVITIES	
Payments to suppliers & employees	(1,334,738)
Receipts from sundry sources	3,360
Receipts from expenses recovered	1,720,553
Interest received	2,683
Net Cash inflow from operating activities	391,858
CASH FLOWS FROM	
INVESTING ACTIVITIES	
Payment for plant and equipment	(267,526)
Net cash (outflow) from investing activities	(267,526)
Net increase in cash held	124,332
Cash at beginning of the financial year	—
Cash at end of the financial year	124,332



Bankers

Commonwealth Bank

Solicitors

Corrs Westgarth Chambers

Auditors

Coopers & Lybrand Consultants

Information Technology

K.P.M.G. Consulting
K.P.M.G. Information Solutions

Special Legal Counsel for Casualties of Telecom

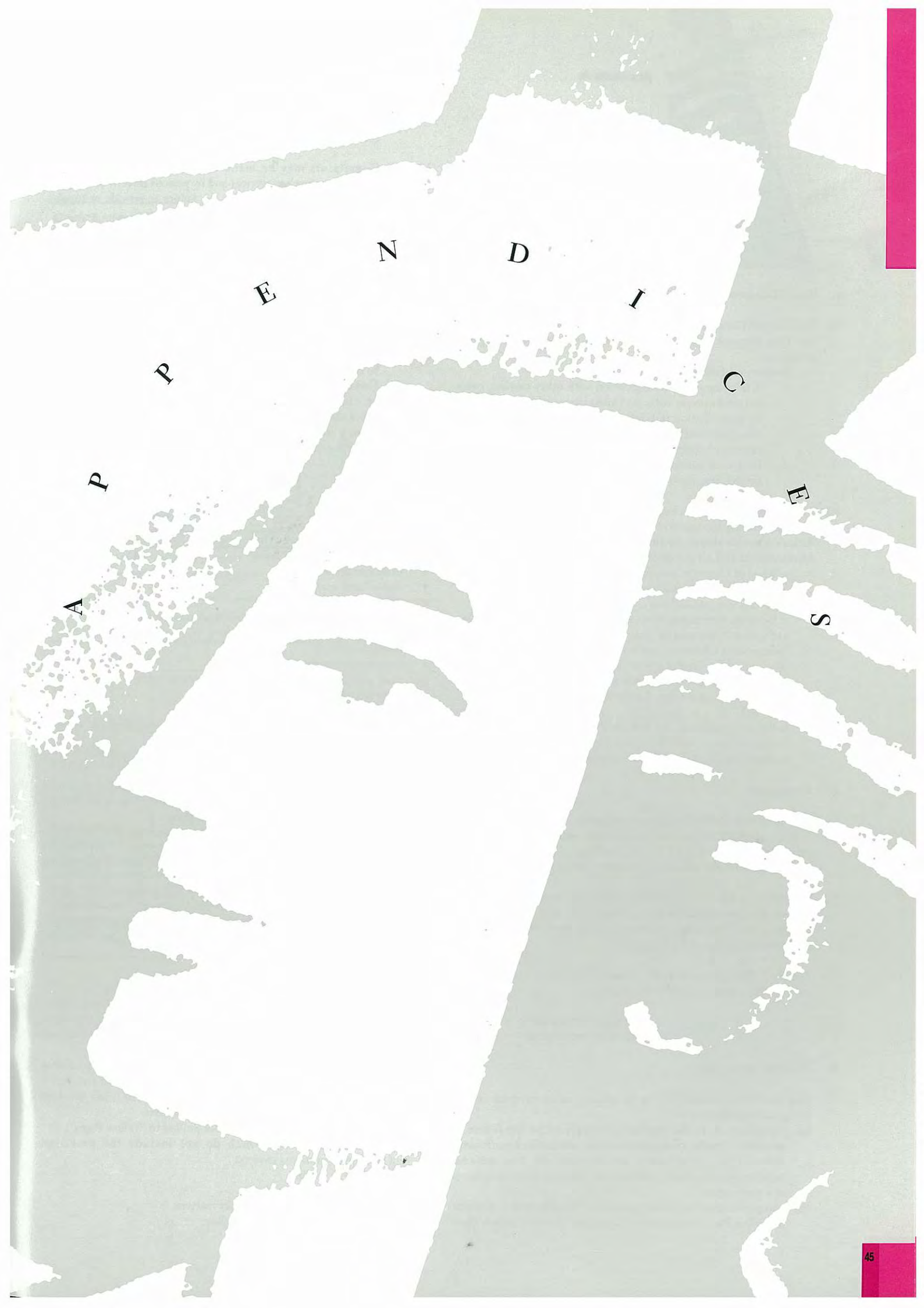
Minter Ellison Morris Fletcher: Mr Peter Bartlett
Ms Pia DiMattina

Special Arbitrator and Senior Arbitrator Panellist

Hunt & Hunt: Dr Gordon Hughes

Special Resource Unit

Ferrier Hodgson - Accountants
D.M.R. Engineering Consultants



Appendix A:

Telecommunications Industry Ombudsman Constitution

Introduction

1. The TIO Scheme:

- 1.1 The General Carrier and Mobile Carrier Licences issued pursuant to the Telecommunications Act 1991 contain *inter alia* the following provisions:

Industry Ombudsman

1. A licensee must, in association with other carriers, enter into and comply with, an Ombudsman scheme, providing for investigation in relation to complaints by consumers about all matters relating to service, billings and the manner of charging for telecommunications services.
2. In spite of subclause 1, the Ombudsman scheme is not to involve investigation of the setting of tariffs.

- 1.2 The Telecommunications Industry Ombudsman ("TIO") scheme has been established by means of a company limited by guarantee, the **Telecommunications Industry Ombudsman Limited**. The Memorandum and Articles of Association of the company establish:

- a Board of Directors, composed primarily of directors appointed by the members and vested with traditional corporate governance responsibilities;
- a Council, composed of an equal representation of member representatives and of consumer interests, chaired by an independent Chairman, and with responsibility for:
 - complaint-handling policy issues;
 - maintaining the independence of the TIO; and
 - acting as an intermediary between the TIO and the Board; and
- a Telecommunications Industry Ombudsman vested with authority under this TIO Constitution to receive, investigate and facilitate the resolution of complaints.

2. Participants:

- 2.1 All general and mobile carriers are participants in the scheme, namely, Telecom Australia, Optus Communications and Vodafone. Certain related corporations of a carrier may also be nominated as participants in the scheme by the carrier concerned.
- 2.2 In addition, a provider of telecommunications services under a class licence may participate in the scheme either as a member of the company, the Telecommunications Industry Ombudsman Limited, or by contracting into the TIO scheme.
- 2.3 The TIO shall ensure that an accurate and up-to-date list of all participants is readily available to the public.

Telecommunications Industry Ombudsman

3. Functions of the TIO:

- 3.1 The functions of the TIO are to receive, to investigate and to facilitate the resolution of:
- (a) complaints as to the provision or supply of (or the failure to provide or supply) telecommunications services by a participant, other than complaints in relation to the general telecommunications policy or commercial practices of a participant;
 - (b) complaints from owners or occupiers of land in respect of which a carrier has exercised its statutory powers, other than

complaints in relation to the policy or commercial decision of a carrier to exercise its statutory rights in relation to that particular land; and

- (c) such other complaints as may, by agreement with the complainant, be referred to the TIO by a participant.

- 3.2 (a) Complaints may be made to the TIO by consumers of telecommunications services and by persons directly affected by the provision or supply of (or the failure to provide or supply) such services provided by scheme participants;
- (b) Complaints may not be made by an intermediate user of a telecommunications service except where the complaint relates to a telecommunications service provided or supplied for the complainant's own use;
- (c) Complaints may be made to the TIO on behalf of a complainant by an authorised representative of the complainant;
- (d) The focus of the TIO scheme is on individual complaints which may be oral or in writing;
- (e) A complaint must have arisen from events which became known to the complainant less than one (1) year prior to the complaint. However, subject to any transitional arrangements in place at the commencement of the TIO scheme, the TIO has a discretion in relation to a complaint which has arisen from events which became known to the complainant between one (1) and two (2) years prior to the complaint.

TIO Jurisdiction

It is the function of the TIO to:

receive, investigate and facilitate the resolution of complaints regarding the provision or supply of (or the failure to provide or supply) telecommunications services. The functions include, but are not limited to, complaints regarding the following:

- basic carriage services;
- higher level services;
- eligible services;
- public mobile telecommunications services and public access cordless telecommunications services;
- operator services;
- directory assistance;
- fault reporting and repair and maintenance services;
- printed and electronic white pages;
- billing not in accordance with a tariff;
- billing for a higher level service or for an eligible service not in accordance with the contracted price;
- failure to supply a service in accordance with a tariff; and
- interference with the privacy of an individual in terms of non-compliance with the Information Privacy Principles contained in s.14 of the Privacy Act 1988 or any industry specific privacy standards which may apply from time to time.

Also for guidance, the functions of the TIO to receive, investigate and facilitate the resolution of complaints from owners or occupiers of land include, but are not limited to, complaints regarding the following:

- failure by a carrier to give notice of its intention to exercise its statutory rights;
- failure to take all reasonable steps to cause as little detriment, inconvenience and damage as reasonably practicable; and
- inadequate compensation.

The functions of the TIO do not extend to complaints relating to:

- a) the provision or supply of customer premises equipment, other than the non-switching handset that terminates the standard telephone service and other network termination equipment supplied as part of a tariffed service;
- b) cabling beyond the network termination point, other than cabling from the network termination point to the first telephone and, in the case of residential telecommunications services, to other standard telephone services within the residential premises;
- c) business directories, including but not limited to "Yellow Pages";
- d) commercial activities which do not include the provision of telecommunications services;
- e) the setting of tariffs;
- f) the 000 emergency service;
- g) Universal Service Obligation policy matters;
- h) matters of telecommunications policy;

- i) matters which may involve anti-competitive behaviour or restrictive practices potentially in breach of the Trade Practices Act 1974; and
- j) complaints which are specifically under consideration by AUSTEL, the Trade Practices Commission or any court or tribunal, or which have been considered by any of those bodies previously.

Appendix B

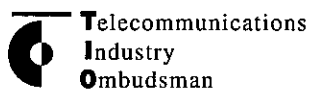
Council Attendance

22/06/93	•	•	•	•	•	•	•
30/06/93	•	•	•	•	•	•	•
21/07/93	•	•	•	•	•	•	•
26/07/93	•	•	•	•	•	•	•
03/09/93	•	•	•	•	•	•	•
12/10/93	•	•	•	•	•	•	•
30/11/93	•	•	•	•	•	•	•
10/02/94	•	▲	•	•	•	•	•
21/04/94	•	•	•	•	•	•	•
10/06/94	•	•	•	•	•	•	•
27/07/94	•	■	•	•	•	•	•
28/09/94	•	■	•	•	•	•	•
Hon. L. Bowen	↑	↑	↑	↑	↑	↑	↑
Andrew Bailey	—	—	—	—	—	—	—
Ted Benjamin	—	—	—	—	—	—	—
John Rohan	—	—	—	—	—	—	—
Elizabeth Morley	—	—	—	—	—	—	—
Ewan Brown	—	—	—	—	—	—	—
Robert Morsillo	—	—	—	—	—	—	—

▲ Represented by David Foster
■ Represented by Andrew Bedogni

Board Attendance

16/06/93	•	•	•	•	•	•	•
19/07/93	•	•	•	•	•	•	•
06/08/93	•	•	•	•	•	•	•
12/10/93	•	•	•	•	•	•	•
30/11/93	•	•	•	•	•	•	•
15/02/94	•	•	•	•	•	•	•
24/05/94	•	•	•	•	•	•	•
23/08/94	•	•	•	•	•	•	•
Ross Ramsey	↑	↑	↑	↑	↑	↑	↑
Rod Simpson	—	—	—	—	—	—	—
Jim Holmes (resigned 6/10/94)	—	—	—	—	—	—	—
John Rohan (resigned 5/10/93)	—	—	—	—	—	—	—
John Fries (appointed 5/10/93)	—	—	—	—	—	—	—
Chris Vonwiller (resigned 4/8/94)	—	—	—	—	—	—	—
Graeme Ward (appointed 6/10/94 replacing Jim Holmes)	—	—	—	—	—	—	—
Gillian Welshe (appointed 4/8/94 replacing Chris Vonwiller)	—	—	—	—	—	—	—



TIO LTD ACN 057 634 787
National Headquarters
321 Exhibition Street
Box 18098
Collins Street East
Melbourne Victoria 3000