

COMMUNICATE: transmit or pass on by speaking or writing

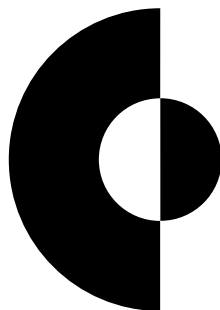
TELECOMMUNICATIONS: communication over distance, by cable, telegraph or telephone

OMBUDSMAN: an official appointed to investigate individuals' complaints



1997 ANNUAL REPORT

TM



**Telecommunications
Industry
Ombudsman**

Providing free, independent, just, informal,
speedy resolution of complaints from
residential and small business consumers
about telecommunications services

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MISSION STATEMENT

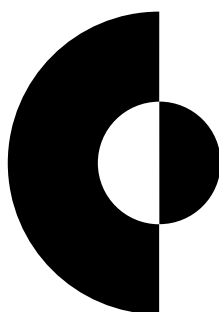
The Telecommunications Industry Ombudsman (TIO) Scheme was established to provide free, independent, just, informal and speedy resolution of complaints and disputes regarding telecommunications services.

The TIO is an office of last resort — customers must first give their telephone company or Internet Access Provider a reasonable opportunity to resolve their complaints.

Independent of government, carriers, service providers and other interested bodies, the office of the TIO is accessible to residential and small business consumers of telecommunications services who remain dissatisfied after lodging a complaint with their service provider.

All carriers and eligible carriage service providers are required to be members of the Scheme from 1 July 1997.

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CONCEPTS

LAST RESORT

The TIO is an office of last resort. Customers must first try to resolve complaints directly with their telecommunications company. If they remain dissatisfied, they can come to the TIO.

ALTERNATIVE DISPUTE RESOLUTION

The TIO uses alternative dispute resolution to solve problems.

Resolution comes when the parties agree on the outcome of the case. The outcome of a case might be less than a complainant had hoped for, or it may exceed their expectations.

The TIO uses a variety of techniques (negotiation, conciliation and mediation) to achieve a resolution.

INVESTIGATION

Where resolution cannot be achieved, the TIO can investigate and make a determination of a case which binds the carrier or service provider. Alternatively, the TIO may dismiss a case.

INDEPENDENCE

The Ombudsman is independent of both government and the carrier and service provider members of the TIO. Only the Ombudsman and his staff can make decisions on complaints.

At the same time, the structure of the TIO ensures that the carriers and service providers must fund the Scheme and comply with the Ombudsman's decisions on cases.

TIO FACTS 1996/97

CASES

The TIO handled 43,715 cases during the 1996/97 year.

41,749 cases (95.50%) of the TIO's cases were Enquires

1,206 cases (2.76%) were Consultations

732 cases (1.67%) were Complaints

28 cases (0.07%) were more complex Disputes

COSTS

An Enquiry costs the TIO member \$15

A Consultation costs \$140

A Complaint costs \$292

A Dispute costs \$1,130

These costs are cumulative.

CASE RESOLUTION TIMES

The TIO's quarterly statistics for 1996/97 indicate improvements in the early resolution of cases due to stricter monitoring of case time frames.

The majority of TIO cases are Enquiries resolved in 24 hours.

The earliest possible resolution time for a Consultation is 21 days — in 1996/97 the average time taken was 23.25 days.

The earliest possible resolution time for a Complaint is 35 days — in 1996/97, the average time taken was 37.25 days.

The TIO aims to resolve Disputes within 90 days — many Disputes require conciliation, mediation or a written Determination by the Ombudsman. In 1996/97 the average time taken was 255 days.

HIGHLIGHTS

OUTCOMES OF CASES

Outcomes are recorded for all cases except Enquiries.

70.09% (845) of Consultations were found either substantially or partially in favour of complainants.

65.31% (479) of Complaints were found either substantially or partially in favour of complainants.

36 Disputes were found substantially or partially in favour of complainants.

WHO USES THE TIO?

State breakdown of cases

VIC: 24.87% of population & 30.65% of cases

NSW: 33.88% of population & 31.75% of cases

QLD: 18.31% of population & 19.10% of cases

TAS: 2.57% of population & 2.28% of cases

NT: 1.00% of population & 1.07% of cases

WA: 9.68% of population & 5.90% of cases

SA: 8.02% of population & 7.45% of cases

ACT: 1.67% of population & 1.80% of cases

Profile of complainants

85.16% of cases (37,226) came from residential consumers

13.91% of cases (6,081) came from small business consumers

0.71% of cases (312) came from government

0.22% of cases (96) came from charities

The role and powers of the TIO have grown as a result of the *Telecommunications Act 1997*.

From 1 July, all companies supplying the standard telephone service, public mobile services and internet access to residential and small business consumers must join the TIO. This will enable the TIO to fulfil its mission of providing comprehensive consumer protection in relation to complaints about the supply of telecommunications services.

This year the TIO commissioned its first independent qualitative research into complainant satisfaction, which found that consumers reacted positively to our speedy and informal investigation of their complaints.

The TIO integrated new technologies so that complaints can be made on-line.

To meet increasing case numbers and complexities, the number of TIO staff grew from 17 to 20 during 1996/97, with 11 staff working in investigations.

The core focus of the TIO is to satisfy enquiries and resolve complaints related to services provided by the telecommunications carriers and service providers

ABOUT THE TIO SCHEME

THE BIG PICTURE

The TIO is an independent, national industry-based Ombudsman's Scheme. The core focus of the TIO is to satisfy enquiries and resolve complaints related to services provided by the three telecommunications carriers and by the 16 service providers which have been voluntary members of the Scheme during the year. In 1996/97 one of the key challenges was to retain this core focus in the midst of the dramatic changes leading up to deregulation.

With its role expanded and powers strengthened by the new *Telecommunications Act 1997*, the TIO is well established as an integral part of the openly competitive environment as an office of last resort for customers whose complaints about telecommunications services cannot be resolved otherwise.

Although it now has a firm legislative footing, the TIO operates independently of government and telecommunications companies, according to its own constitution. The main policy-making body of the TIO Scheme is its Council, comprised of an independent Chairman and equal numbers of representatives of Scheme members and of user or consumer groups. The Board, comprised of Scheme members, is concerned with corporate governance and proper funding.

These two bodies are established under the Memorandum and Articles of Association of the Telecommunications Industry Ombudsman Limited, a company limited by guarantee.

The Ombudsman and staff of the Office are responsible for the day-to-day running of the TIO Scheme and are totally independent in making case decisions.

A division of functions separates the development of policy (such as the Ombudsman's jurisdiction and methods of handling and resolving

complaints) which is a matter for the TIO Council from the carriers and service providers, who are funding the Scheme, and ensures a crucial contribution of consumer and user opinion. Similarly, the members of the Scheme may not control the appointment of the Ombudsman. That is the task of the Council.

While Council may not dictate the allocations of funds for the Scheme to the Board, the Ombudsman submits the Scheme's budget to the Council for approval and only after this has been approved is the budget referred to the Board.

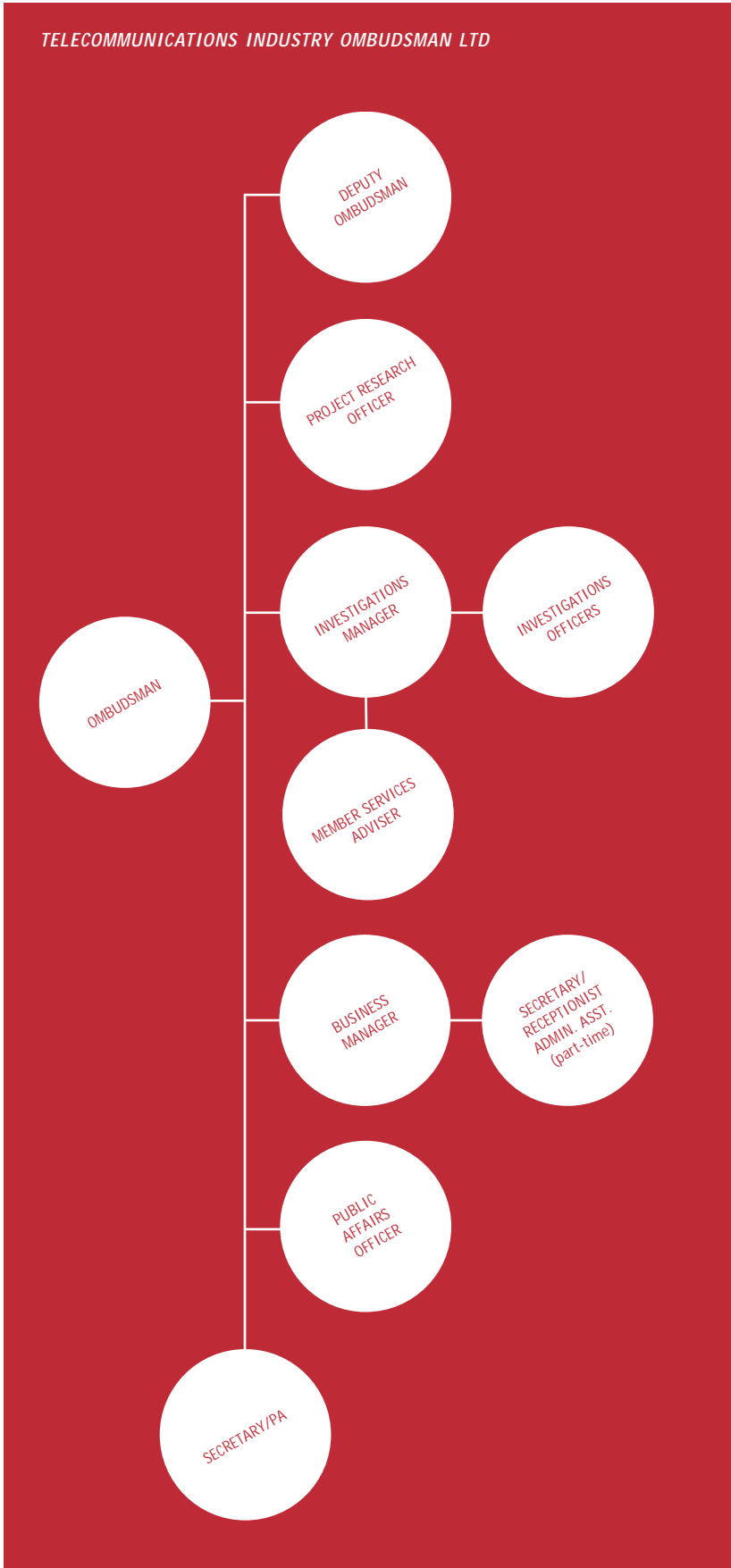
Outside the direct circle of Scheme members, Council and Board, the TIO has informal liaison with public bodies such as the Australian Communications Authority, the Australian Competition and Consumer Commission, State Offices of Fair Trading and the Department of Communications and the Arts.

Generally, the focus of these relationships has been to remain abreast of and raise relevant policy issues impacting on consumers. A significant number of complaints are referred to some of these organisations. In future, it is anticipated that the TIO will liaise closely with the Australian Communications Industry Forum (ACIF), as it develops industry codes of practice.

While the TIO has a conciliatory and cooperative approach to resolving complaints, it maintains strict independence in its investigations, advocating practical and speedy outcomes to problems.

The longer a complaint is allowed to go on without resolution, the more difficult resolution becomes, leading to an increased likelihood of losing a customer.

The TIO advocates effective complaint handling within industry and, wherever possible, shares its expertise and experience in complaint



management with members. In early May 1997, in anticipation of a much wider membership, the TIO established a Member Services Adviser to facilitate more effective communication between members and the TIO investigations team.

The TIO cannot act as an advocate on behalf of consumers, but does advise complainants as to how they might articulate, substantiate and provide evidence supporting their cases. Regardless, the TIO exercises its judgement and powers impartially, according to the facts.

While an industry Ombudsman does not have the statutory responsibilities of Commonwealth and State Ombudsmen, the TIO assumes a duty to comment on issues of public concern. In an endeavour to have industry address the root cause of complaints, the Ombudsman has raised a number of systemic issues through public media, such as radio and television interviews, a regular weekly article in *The Australian* and in the quarterly editions of *TIO Talks*.

During 1996/97, the Ombudsman called for better information about the phase-out of the analogue network, improvement in consumer information about digital mobile contracts and greater clarity in the billing process. He also addressed issues of privacy, land access, churn between telephone companies and the wider role of the Ombudsman in the coming year.

The major factor facing the TIO in 1997/98 will be the increase in the number of enquiries and complaints due to an expanded membership, incorporating new carriage and Internet access providers.

STATEMENT FROM THE CHAIRMAN OF THE COUNCIL

This annual report for the year ended 30 June 1997 is the fourth since the inception of the TIO Scheme in December 1993.

The Ombudsman Scheme has become an accepted and vital part of the telecommunications environment now that Australia is embarking on the next major round of telecommunication reforms. The role of the TIO, its work load and the complexity it faces will all be increasingly important. The relevance of the TIO in the changing environment is underscored by the decision that Internet Access Providers will become part of the Scheme.

The success of industry schemes, like the TIO Scheme, depend on good relationships all round. John Pinnock, the Ombudsman, his Deputy, Wally Rothwell, and Business Manager, Helen Bailey, lead a committed team who are highly effective in what can be a very stressful environment.

Members of the Council have been vigilant in ensuring that the voice and needs of telecommunications consumers are heard, and have enjoyed excellent working relationships with the Board, the Ombudsman and his staff.

It has been a privilege to take over from The Hon. Lionel Bowen, the initial Council Chairman. I have consequently inherited a Scheme in excellent working order which is well placed to handle the consequences of rapid change in the vital telecommunications area.



The Hon. Tony Staley

THE TIO COUNCIL



The Hon. Tony Staley

Chairman of the Council

MEMBER REPRESENTATIVES



Mr Andrew Bedogni

Manager, Regulatory Affairs, Optus Communications Pty Ltd

USER AND PUBLIC INTEREST GROUP REPRESENTATIVES



Ms Julie Austin

Assistant Director, National Farmers' Federation



Mr Ted Benjamin

Director, Consumer Affairs, Telstra Corporation Ltd



Mr Ewan Brown

Executive Director, The Small Business Enterprise Telecommunications Centre (SETEL)



Mr Graeme Holm

General Manager, Corporate & Regulatory, Vodafone Pty Ltd



Ms Pam Marsh

Director, Community Information and Referral Service of ACT



Mr Brian Perkins

Director, Regulatory and General, AAP Telecommunications (Service Provider Representative)



Ms Elizabeth Morley

Australian Consumers' Association

STATEMENT FROM THE CHAIRMAN OF THE BOARD

The past year has been one of significant change in the area of telecommunications in Australia and particularly in the Telecommunications Industry Ombudsman Scheme.

Mr Tony Staley became Chairman of the Council in August 1996 and I took over as Chairman of the Board, after being a member both on the Board and the Council since the inception of the TIO Scheme.

Mr Adrian Coote resigned as Chairman of the Board in October 1996 and I thank him for his contribution during this time as Chairman. Mr Colin Marland became a Board member in October 1996, representing the Service Provider Members.

I would like to thank John Pinnock for his contribution as Ombudsman during the year and, as John Pinnock's initial contract has finished, he has now agreed to a further three-year contract in the Ombudsman position.

The TIO Scheme was initially based on licence conditions for the carriers and the TIO has now moved onto a legislative footing under *Part 10* of the new *Telecommunications Act*. The Government and industry have recognised that the TIO is a central element of the self-regulatory arrangements for the telecommunications industry provided for by the Act.

The new Act has extended the jurisdiction of the TIO. The TIO will now have almost total coverage of those providing carriage services to residential and small business consumers, thereby providing an even greater measure of consumer protection.

Internet Access Providers have now been included in the TIO Scheme and this is an example of the continued convergence of communications on the TIO. The Act now requires that the TIO will be consulted in relation to the development of consumer codes of practice. Finally, the Act also gives the TIO parallel jurisdiction under the Customer Service Guarantee to be able to issue evidentiary certificates, or investigate complaints in relation to breaches of performance standards under the Guarantee.

The continuing success of the TIO is due in no small measure to the dedication of the staff of the Office, who have maintained a high level of commitment and professionalism in dealing with consumer complaints.

During the past year, the Ombudsman has continued to grow the awareness of the TIO Scheme through a column in the national press and through publications, appearances on television, radio interviews, and speeches. I would like to take this opportunity to thank the Members of the Scheme, the Board and the Council Members for their significant input to the running and expansion of the TIO Scheme.



John Rohan

THE TIO BOARD



Mr John Rohan

Chairman of the Board,
Managing Director Vodafone Pty Ltd



Mr Colin Marland

Director, Business Planning and
Strategy, corpTEL Pty Ltd
(Service Provider representative)



Ms Deirdre Mason

Director, Corporate Affairs,
Telstra Corporation Ltd



Ms Ross Ramsay

Senior Government Liaison
Consultant, Optus
Communications Pty Ltd



Mr Graeme Ward

Group Director, Regulatory and
External Affairs, Telstra
Corporation Ltd

OMBUDSMAN'S OVERVIEW

This *Annual Report* is primarily an account of the work of the TIO over the last financial year. However, it also looks forward in considering the impact on the Scheme of the sweeping changes to the regulation of telecommunications introduced on 1 July 1997.

In reviewing the Scheme and the work of the office, I am struck both by the increase in the number of cases handled and by the continuing relevance of the issues raised in the 1996 report.

Growth

In 1996/97 there was little change in the membership of the TIO constituted by the three carriers and 16 service providers. The number of cases raised by the TIO increased to 43,715 cases, a leap of 62.48% from the previous year. This upsurge is almost wholly due to an increasing community awareness of the existence and role of the TIO, rather than being an indication of any decline in customer service standards by carriers and service providers.

The growth rate is bound to increase further as a result of the extension to the jurisdiction of the TIO on 1 July 1997. The greatest challenge facing the Scheme is to maintain the high performance standards achieved over the past three and a half years, particularly the efficiency and effectiveness of its case handling.

Although we have always believed that the case process is a good one, it is pleasing to see this belief reflected in the views of complainants participating in recent research commissioned by the TIO. The research results also suggested a number of improvements which could be introduced and these have been adopted.

GSM Contracts

Complaints about digital mobile contracts continued at much the same rate as in 1995/96, indicating that consumers are still having difficulties grappling with this marketing initiative.

The TIO has been highlighting this issue for over 12 months, with somewhat mixed results. Some service providers have redesigned and revamped contracts to make them clearer and more easily understood, e.g. by including a series of prompts or checklists. Other providers have largely turned a deaf ear to consumer demands and dissatisfaction. In other cases, providers have introduced contracts of even greater length as they attempt to absorb the higher costs of new handset models.

Back-billing

Back-billing refers to the delay in bringing call charges to account within the billing period. The TIO has again emphasised the potential for back-billing to become a serious consumer issue as the interchange of services increases.

By definition, telecommunications provide the means for an interchange of information by a potentially unlimited number of parties and, with the advent of new carriers and service providers and the marketing of an increasing number of complex services, the billing system is inherently more complex than for the supply of other utility services.

Generally, consumers expect call charges to be brought to account in the billing period in which they occur. In some cases, however, carriers and service providers are unable to meet such expectations for a variety of technical and other reasons.

The question arises as to whether it is reasonable to allow providers to bill for call charges incurred outside the standard billing period, whatever that may be. The TIO has taken the view that in some circumstances back-billing may be reasonable. Equally, it has consistently suggested that it is unreasonable to back-bill beyond a period of 90 days from the billing period.

The response from carrier and service provider members has been extremely varied, highlighting the need for a generally accepted standard in this area. In this regard, it is interesting to note that one of the examples of matters that may be dealt with by Industry Codes or Standards under Section 113 (3) of the Telecommunications Act is:

- (o) the timeliness and comprehensibility of bills.

Carriers and service providers must understand that a small, but significant, number of consumers have a perception that billing systems in the telecommunications sector are inaccurate. To the extent that providers of services are unable to bring call charges to account in a timely manner, that perception is exacerbated.

COT Arbitrations

All but four of the arbitrations involving a group known as the COT (Casualties of Telecom) have now been determined. The claimant in a further arbitration has appealed against the award made by the arbitrator.

Following lengthy discussions and negotiations in 1996, the TIO and Telstra reached an agreement that, where an award was made in favour of the claimant, Telstra would make contributions to each claimant's reasonable legal, technical and accounting costs, on an ex-gratia basis. The arbitration procedures made no provision for the payment of a successful claimant's costs.

Subsequently, Telstra agreed to make available at least \$1.2m to pay such costs. These costs are to be assessed by the TIO as administrator of the arbitration procedures.

To date, payments have been made to all eligible claimants and interim assessments of costs have been made in respect of three of the four remaining arbitrations.

“The greatest challenge facing the Scheme is to maintain the high performance standards achieved over the past three and a half years”



THE FUTURE

The *Telecommunications Act 1997* recognises the success of the TIO Scheme as a key element of industry self-regulation.

The Act provides a legislative footing for the TIO, while leaving the details of the Scheme to its members to determine; extends the mandatory membership base to include all carriers and eligible carriage service providers; and confers new jurisdictions on the TIO in relation to the development of Codes of Practice and to investigate complaints about breaches of both Codes and the Customer Service Guarantee.

From 1 July, all carriers and eligible carriage service providers must join the Scheme. An eligible carriage service provider is one which:

- supplies the standard telephone service, where any of the customers are residential or small business customers
- supplies a public mobile telecommunications service
- arranges for the supply of the above services (resellers/aggregators)
- supplies a carriage service which allows an end user to access the Internet.

The last category is potentially one of the most important extensions to the TIO's jurisdiction. Accordingly, total membership of the TIO is set to rise from 19 as at 30 June 1997 to at least several hundred.

The expansion of the TIO means a much greater measure of protection for consumers in one of the most rapidly growing industry sectors in Australia. It also poses a greater challenge to the TIO and its staff to manage a range of issues arising from new technologies and different members' needs.

The response of TIO staff to this challenge has been both enthusiastic and professional and is confirmed by complainants responding to recent independent research of the TIO's complaint handling procedures.

I again thank the Council and Board of the TIO for their continuing support for the Scheme and for their recognition of and commitment to the need for the TIO to develop and grow in the new regulatory and technological environment.

Finally, on a purely personal note I record my appreciation of the work of the TIO's Business Manager, Ms Helen Bailey, who has been with the Scheme since its inception. She has shown dedication and an unswerving commitment to the TIO and will no doubt display the same traits in her new role with the Australian Communications Industry Forum.

A handwritten signature in black ink, appearing to read 'John Pinnock'. The signature is stylized and cursive.

John Pinnock

VOLUNTARY SERVICE PROVIDER MEMBERS

Following an invitation from Council and Board in early 1996, 16 service providers, including major suppliers of services to residential and small business consumers, voluntarily joined the TIO Scheme.

These were:

- AAPT
- Australian Communications Exchange
- Call Australia
- corpTEL
- First Netcom
- Hutchison Telecoms
- Mobile Innovations
- One.Tel Pty Ltd
- SITA Airline Telecommunications & Information Services
- Spectrum Network Systems
- switch Telecommunications
- United Telecommunications
- Vodac
- Vodacall
- Western Telecom
- Worldxchange Pty Ltd.

The TIO is grateful for the early support of the 16 voluntary service provider members who have demonstrated a commitment to ensuring quality customer relations. Their voluntary participation is a welcome testimony to their leadership in complaints management.

In October 1996, Mr Brian Perkins, Director, Regulatory and General, of AAP Telecommunications was elected to the Council and Mr Colin Marland, corpTEL's Business Planning and Strategy Director, was elected to the Board.

Following this election Mr Perkins said that service providers were every bit as concerned about professionalism when dealing with customer issues as other telephone companies and want to be seen as competent players in the industry. TIO membership provided such an opportunity.

Mr Marland also said that he was pleased to be part of an independent organisation and supported the new legislation requiring eligible carriage service providers to join the TIO Scheme.

MEMBERSHIP CHANGES FROM 1 JULY 1997

From 1 July 1997, in accordance with Part 10 of *Telecommunications Act 1997*, membership of the TIO Scheme is mandatory for all carriers and eligible carriage service providers, including Internet access providers. Consequently, TIO can now investigate complaints about all carriers and carriage service providers supplying the standard telephone service to residential and small business customers, and those providing mobile telecommunications and Internet access. Carriage service intermediaries, such as resellers or aggregators that arrange for the supply of carriage services, must also become members.

Prior to 1 July 1997, the TIO used direct mail and electronic means to alert service providers of the new registration requirements and obligations. Approximately 475 Internet Service Providers and 90 telecommunications service providers were contacted and any carriers and eligible carriage service providers that have not already done so are now urged to join the Scheme.

The TIO is entitled to raise cases against any eligible organisation which does not join. Further, failure to comply with the Scheme is a breach of the *Telecommunications Act 1997*, which the TIO will report to the Australian Communications Authority (ACA).

The ACA can direct compliance or take action against non-complying organisations, but may also exempt a carrier or eligible carriage service provider from the obligation to join the Scheme. Exemptions may be granted for service providers not dealing with small businesses or residential customers, however, before granting an exemption, the ACA must consult with the TIO.

To ease the transition for current and new Scheme members, the office recently appointed a Member Services Adviser to provide advice and deliver presentations to TIO members on their rights and responsibilities under the TIO Scheme.

TIO STAFF: WHO WE ARE AND WHAT WE DO

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN

Mr John Pinnock was appointed Telecommunications Industry Ombudsman (TIO) in May 1995. Mr Pinnock has the rare distinction of working within both statutory and industry-based Ombudsman Schemes, having served as Deputy Ombudsman in the Office of the NSW Ombudsman for six years.

The Ombudsman is responsible for the overall day-to-day administration of the TIO Scheme and advises Council on the implications of policy changes. He is ultimately responsible for case management and makes all determinations of cases where members are required to comply with a direction. The Ombudsman also acts as administrator of a number of arbitration procedures, such as the COT (Casualties of Telecom) cases.

Favourable outcomes for complainants have increased, along with greater efficiencies in case management, and the TIO has been recognised for its commitment to consumer protection and quality customer care. He advised the Council and Board on policy matters related to the review of the telecommunications legislation in the lead up to the introduction of the *Telecommunications Act 1997* and the subsequent expansion of the Scheme from 1 July 1997.

The Ombudsman is responsible for the overall day-to-day administration of the TIO Scheme and advises Council on the implications of policy changes.

DEPUTY TELECOMMUNICATIONS INDUSTRY OMBUDSMAN

The Deputy Telecommunications Industry Ombudsman is authorised by the TIO Scheme Constitution to deputise in the absence of the Ombudsman. He also plays a key part in the investigative work, particularly complex investigations or those requiring mediation.

Mr Wally Rothwell began as Deputy TIO in January 1995. He was the inaugural Executive Director of the Australian Telecommunications Users Group (ATUG) for more than 10 years.

Mr Rothwell is widely known in the telecommunications industry and frequently represents the TIO at industry and public events. He has also represented the TIO in public and industry policy development processes, in particular, the AUSTEL Privacy Advisory Committee.



John Pinnock, Ombudsman (left) with Wally Rothwell, Deputy Ombudsman



*Top: (from left)
Louise Wardlaw, Member Services Adviser;
Helen Bailey, Business Manager and Company Secretary;
Melinda Dundas, Public Affairs Officer and
Silvia Superina, Project Research Officer.*

*Below: (from left)
Ms Orietta di Fabio, Receptionist;
Ms Daniela Phillips, Administrative Assistant; and
Ms Astra Taurins, Personal Assistant to the Ombudsman.*



THE BUSINESS MANAGER AND COMPANY SECRETARY

TIO Business Manager, Ms Helen Bailey, is responsible for the financial and general management of the Scheme — accounting and business systems and procedures, human resources and maintenance of the public register of member companies.

Ms Bailey has held this position since September 1993, shortly after the appointment of the inaugural Ombudsman, Mr Warwick Smith. She worked with Mr Smith in establishing the office, staff recruitment, and all other tasks required to set up a new organisation.

The Business Manager is responsible for raising all case costs against members (case-driven funding), and ensuring that these costs are paid on a regular basis. This funding model gives the TIO the flexibility to grow as the number of cases increase and ensures its ability to meet the demands of the rising levels of complaints.

As Company Secretary, Ms Bailey also documents Council and Board meetings and advises these bodies on a wide range of matters.

PROJECT RESEARCH OFFICER

Ms Silvia Superina, an experienced Investigations Officer, was appointed Project Research Officer in mid-1997 to represent the TIO on Industry Code Reference panels and/or Working Groups convened by the Australian Communications Industry Forum (ACIF).

The Project Research Officer advises the Ombudsman on matters relating to the TIO's jurisdiction in relation to the development and implementation of Industry Codes and the Customer Service Guarantee, and liaises with the Australian Competition and Consumer Commission (ACCC) and the Australian Communications Authority (ACA).

PUBLIC AFFAIRS OFFICER

Public Affairs Officer, Ms Melinda Dundas, liaises with the media, coordinates both the production of TIO publications and the advertising and public relations campaigns with the external agencies, as well as initiating and preparing for outreach work by the Ombudsman and his Deputy.

The TIO reports on its work on a quarterly and annual basis and, where appropriate, raises relevant issues among specific groups and in the media.

ADMINISTRATIVE STAFF

The TIO has a small number of administrative staff. Ms Astra Taurins, provides secretarial and administrative support to the Ombudsman and Deputy Ombudsman; Ms Daniela Phillips is Administrative Assistant to both the Business Manager and the Investigations team; and Receptionist, Ms Orietta di Fabio, is frequently the first point of contact for complainants. Administration Assistant, Ms Val Tosolini left the TIO during this year, to have her second baby.

The TIO's administrative staff, along with the investigations team, are well experienced in communicating with callers from a diversity of backgrounds.

Investigations Officers are the core of the Scheme, handling an average of 1,000 cases per week through the TIO's 'call centre' in Melbourne.



Top: Investigations Officers (from left) Lissa Worthington; Julie Menzies; Jim Tilkeridis and Debra Lusty.

Left: part of the investigations team (from left) Julia Hickey, Manager, Investigations; Investigation Officers: Carrie Liddle; Alex Buchanan; David Scarfe and Sarah Nye.

THE INVESTIGATIONS MANAGER

The Investigations Manager, Ms Julia Hickey, oversees the investigations area, including resourcing and training staff and supervising investigations. She also advises investigations officers on issues arising from complaints and refers relevant cases to the Ombudsman and Deputy for their consideration. In addition to the independent case reviews, she also manages the Case Management System software used to collect case details, and provide statistics for quarterly and annual reporting.

MEMBER SERVICES ADVISER

The new position of Member Services Adviser was filled in May 1997 by Ms Louise Wardlaw, who has a detailed knowledge of the Scheme based on her practical experience as an Investigations Officer.

The position was created to support the rapid expansion of the TIO Scheme from 1 July 1997. Ms Wardlaw helps companies understand their new roles and obligations in relation to the Scheme, the powers of the Ombudsman and TIO procedures for handling cases.

THE INVESTIGATIONS TEAM

Investigations Officers are the core of the Scheme, handling an average of 1,000 cases per week through the TIO's 'call centre' in Melbourne. Unlike some call centre operations, the emphasis is on qualitative outcomes rather than quantitative measures of calls handled within given time periods. Further, Investigations Officers manage cases at all levels.

By avoiding a hierarchal approach to case management, Investigations Officers can develop initiative and exercise discretion consistently. Officers specialise in an area of telecommunications, undertaking research and contributing advice on these areas, as follows:

- Ms Alex Buchanan — Billing
- Ms Sue Ince — Rural and Remote
- Ms Carrie Liddle — Internet
- Ms Debra Lusty — Internet
- Ms Julie Menzies — Long Distance/Information Calls
- Ms Sarah Nye — Directories/Privacy
- Mr David Scarfe — Mobiles
- Ms Laura Spencer — Basic Carriage Service and Disability Services
- Mr Jim Tilkeridis — Land Access
- Ms Lissa Worthington — Service Providers
and Case Management System

Several Investigations Officers left the TIO during 1996/96 including Sally Williams, Mike Tapper and Nick Davies.

PUBLIC AFFAIRS

The TIO's success depends on consumer access to the Scheme, which in turn depends on consumers' knowledge of its role and existence. Accordingly, more than 10% of the budget is spent on efforts to raise the level of community awareness of the Scheme. This includes, for example, media briefings, interviews and addresses at seminars by the Ombudsman or other staff.

The TIO seeks creative use of technology to complement a variety of communications methods to publicise its work, including direct media contact, public forums and seminars. This focus is supplemented by publications such as TIO Talks and the Annual Report, which maintain and increase the TIO's profile amongst consumer group representatives.

In the past year, the TIO continued a program of ADR Forums in the capital cities in conjunction with the Banking Industry Ombudsman, the Life Insurance Complaints Service and Insurance Enquiries and Complaints Service. Through a pilot project, the TIO extended this program to regional centres, receiving good media coverage despite small attendances.

In February 1996, only 7% of Australians had a 'top-of-mind' awareness of the TIO, while approximately 31% knew there was somewhere they could take a complaint about phone services, but did not know the name. With the financial support of its original carrier members, the TIO has launched an advertising and public relations campaign to the mainstream media.

Public Awareness Campaign

The Ombudsman maintains that members also have an obligation to advise their customers of the existence and role of the Scheme. After considering various proposals the three original carrier members, Telstra, Optus and Vodafone, agreed to support an extensive national public awareness campaign to increase unaided awareness of the TIO to 25% over the next year, at an additional cost of \$0.5m.

The campaign will be split into a general public awareness campaign and one focusing on selected non-English-speaking communities. The former will place heavy emphasis on advertising in those newspapers that have the highest circulation in both urban and rural areas and a particular exposure to small businesses.

*Telstra, Optus and Vodafone
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of \$0.5 million.*

<p>Come to a dead-end with a phone problem?</p>	<p>The Telecommunications Industry Ombudsman will be happy to help.</p>
	 <p data-bbox="813 1859 1500 1904">If you're not getting anywhere with your phone company, the Telecommunications Industry Ombudsman provides free, independent, speedy resolution of complaints. If all else fails, free call 1800 062 058 9am-5pm EST Monday-Friday.  Telecommunications Industry Ombudsman</p>

Although awareness of the TIO is likely to be higher than reported in the last survey finding of 7%, the target of 25% is significant and the TIO will conduct a further survey at the end of the campaign to test its success.

The campaign which focuses on non-English-speaking backgrounds will target people whose first languages are Mandarin, Cantonese or Vietnamese. These communities rely heavily on a wide range of telecommunications services, including the Telephone Interpreter Service. The campaign will feature extensive newspaper advertising supplemented by radio advertising.

If successful, a similar campaign, in 1998/99, may be extended to other non-English-speaking business (NESB) communities, based on relevant 1996 census statistics.

The awareness campaign also targets those in cases of special need, such as the disabled or the aged and people from non-English speaking backgrounds as well as those with a high investment in telecommunications services, such as people in small business and in rural and remote regions of the country.

Community Service Announcement

This year the TIO produced a Community Service Announcement, accredited by the Federation of Australian Commercial Television Stations, for free broadcast on commercial television stations nationwide. The announcement was also broadcast by the ABC, SBS and Community television. Subsequently, it was translated into Mandarin and Cantonese for broadcast on Sydney Chinese Community Television.

Office of Last Resort

The concept of an office of last resort — that the TIO cannot take up any case against a member of the Scheme unless the customer has first attempted to resolve the dispute with that member — is difficult to communicate, yet critical to awareness.

Research indicates a lack of understanding of the words 'last resort' and this message, however scripted, has tended to get lost in the main message — the existence of the TIO and its role. The intensive public awareness campaign will address this particular issue.



Web Site

The TIO's Web Site reflects the new membership requirement for Internet Access Providers and other eligible carriage service providers. It contains information and new membership forms and also allows consumers to lodge their complaints on-line.

It includes pro-forma complaint forms for both customers of Internet Access Providers and Telecommunications Carriers/Service Providers. The design of the forms include a series of prompts which ensure that consumers have already attempted to resolve their complaint with their service provider prior to seeking the assistance of the TIO. Mandatory information boxes ensure that appropriate customer identification (such as login/user name or telephone service number) is available to the TIO and can be provided to members.

On-line complaints are treated in a similar fashion to facsimiles. Replies to complaints and the remainder of case work is carried out using more traditional paper-based methods. It is planned that on-line complaints will be integrated into the TIO's Complaints Management System to ensure greater efficiency.

To promote the role of the Scheme, the TIO ran an Alta Vista banner advertisement for its new Web Site. This banner ad received 74,000 exposures in the first week that the advertisement ran. The TIO's Web Site can be viewed at www.tio.com.au

INVESTIGATIONS: HOW THE TIO WORKS

*...the TIO aims
to use a cooperative,
rather than an
adversarial approach,
negotiating outcomes
it deems to be fair
and reasonable...*

CASE MANAGEMENT: AN OVERVIEW

A case usually begins as an 'Enquiry', and often proceeds no further. The TIO usually deals with Enquiries on the spot, giving simple advice, or referring the caller to another appropriate organisation. If referred to a member of the Scheme, a caller is advised to contact the TIO again if unable to resolve the case.

An unresolved enquiry may become a 'Consultation' or may be raised to that case level initially. The matter is investigated through a written query sent to the relevant member. A response is required within 14 days, and if not received, the case may be upgraded to the more serious status of 'Complaint'.

A member must respond to a 'Complaint' within 28 days. Complaints usually involve an amount of compensation or rebate sought generally greater than for a 'Consultation'; alternatively, significant technical testing may be required to resolve the case. A case not resolved at this level may be upgraded to a 'Dispute', which has no set time frame, although the TIO aims to resolve these within a further 90 days.

Cases can be classified by the Investigations Officer as either 'Consultations' or 'Complaints' at the outset, depending on how serious or complex the matter.

With all investigations, the TIO aims to use a cooperative, rather than an adversarial approach, negotiating outcomes it deems to be fair and reasonable based on a significant and broad base of experience.

SUPPORTING A COMPLAINT

Today's highly demanding society is increasingly likely to complain if goods and services are not provided as expected or advertised. Of the 43,715 cases handled over the last year (representing about 60% of all calls received by the Ombudsman's office), the majority were handled within a day, but many took longer to resolve, often because the complaint was not properly presented.

The TIO advises that complainants can assist the process in the first instance by acting quickly: customers reaching an impasse with their telephone company should follow up the matter straight away, ensuring they know and are able to present all the facts of the matter (bills, receipts, notices, letters and any other relevant

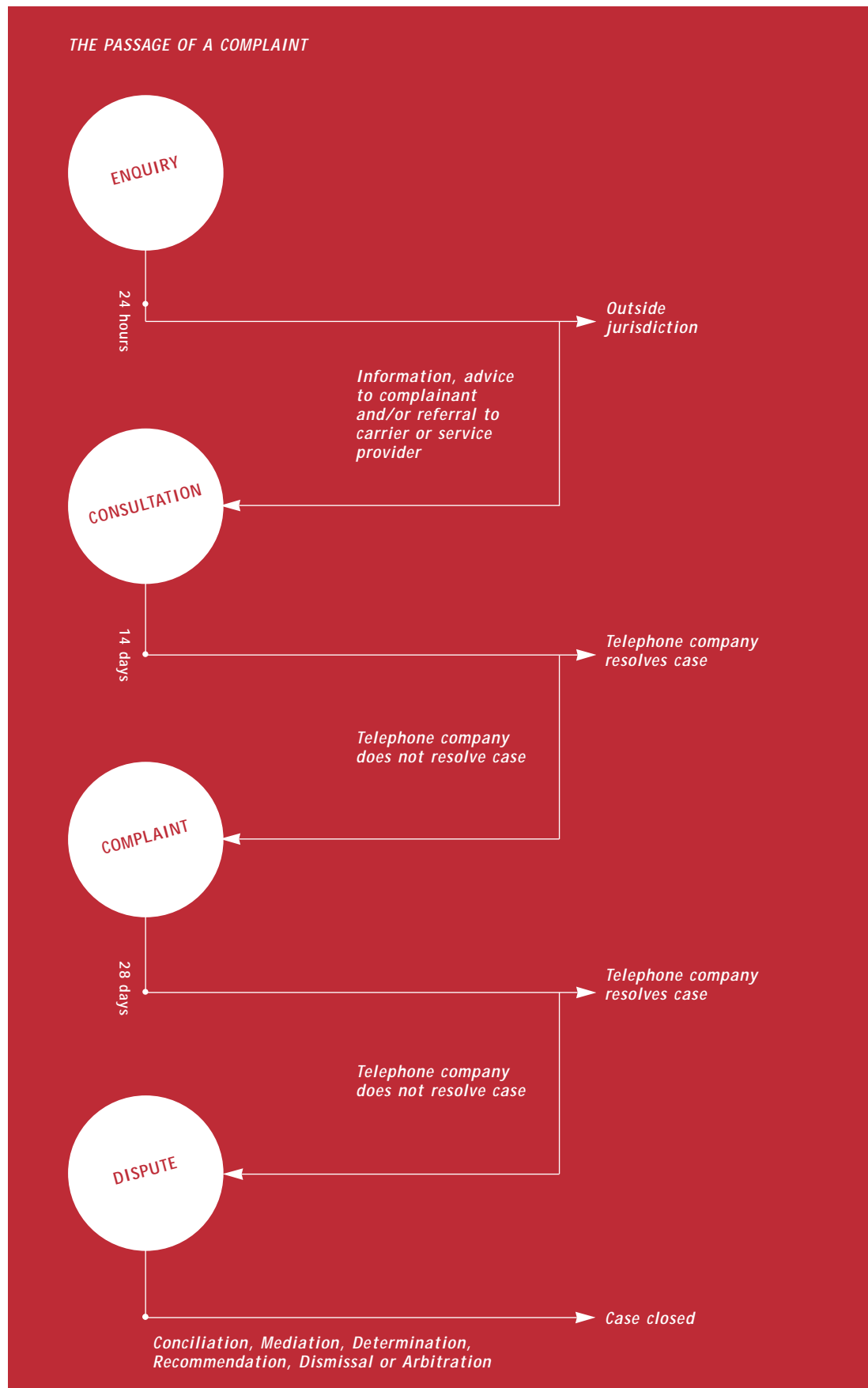
documentation). In a small number of cases, the complainant is not really sure about which telephone company he or she is complaining.

Secondly, if documentation will assist a resolution, it is usually helpful to put the complaint in writing and complainants should keep copies of anything they send to their telephone company.

Finally, it is vital to know what resolution the complainant is seeking: a telephone reconnection or test, a refund or money in compensation, or just an apology? Whatever it is, the TIO's task is to achieve a resolution that is realistic and reasonable to both parties. Compromise is recommended rather than costly court resolutions, though that alternative is available.

Depending on the nature of the complaint, the carrier or service provider might be asked to provide: testing of a line or equipment; billing or fault histories for the particular customer; customer service notes; relevant correspondence with the customer; and its own view of the matter and how it might best be resolved.

In summary, the TIO can best help consumers when the facts are clear, accurately recorded and there is a realistic and fair expectation of a satisfactory resolution.



This story of a complaint illustrates the journey of a case from the point when a complainant first contacts the TIO to the resolution of the case. The information is based on a typical local call complaint, the most common type of complaint received, and shows how it was handled by a TIO Investigations Officer.

ENQUIRY

CONSULTATION

15 OCTOBER 1996

A complainant, Ms Smith called the TIO to lodge a complaint about the number of metered calls she had been charged on her July 1996 account. She claimed that, although she was usually charged approximately 100 metered calls per quarter, she had been charged 400 metered calls on this account.

Discussing the matter with the complainant, the Investigations Officer ascertained whether there had been any unusual events that may have accounted for the increase in calls (e.g. guests staying, a family occasion). The complainant stated that she lived alone and believed her calling pattern had remained consistent during the period in question. The Officer asked whether she had reported her complaint to Telstra and if so, what action had been taken. Ms Smith advised that she had telephoned 13 2200, spoken to a Telstra representative, and a preliminary investigation had been conducted. The matter had not been escalated to a higher level within Telstra.

As the TIO is an office of last resort, the Investigations Officer referred her to the highest level of complaint at Telstra, and advised her to write to the TIO if the matter was not resolved, providing a copy of the account in dispute and any other relevant correspondence. The Officer did not formally raise a Consultation or Complaint at this stage, but entered the matter as an Enquiry on the TIO's Complaint Management System.

27 OCTOBER 1996

A letter was received from the complainant advising that she was not satisfied with the response she had received from the highest level of complaint at Telstra. Based on the information provided by Ms Smith, the Investigations Offer decided to raise the case as a Complaint against Telstra.

The Officer wrote a letter to Telstra immediately, outlining the nature of the Complaint and requesting that Telstra provide a copy of the results of all testing that had been conducted on the complainant's service. If the relevant testing had not already been conducted, the Officer requested that Telstra now do so, and also requested that additional information be provided, such as the meter and fault history for her service.

In addition, the Officer requested that Telstra confirm whether there had been any line work conducted in the area during the period covering the disputed calls. In accordance with TIO procedures for a complaint, the Officer requested that Telstra respond within 28 days.

The Officer then wrote to the complainant, acknowledging that the TIO had raised a Complaint against Telstra and advising that she would be contacted in four weeks time.

25 NOVEMBER 1996

A response was received from Telstra, providing all the information requested. Using the meter history provided by Telstra, the Officer graphed the complainant's daily average metered call usage from March 1994 until October 1996. The graph indicated that usage was consistent, with the exception of the period between April and May 1996.

The Investigations Officer then examined the results of all the testing conducted by Telstra to see if there were any indications that an existing anomaly or fault may have caused incorrect charging. The Officer also looked at the fault history to see if there were any faults reported during the period the disputed calls were said to have been made.

Telstra advised that it had not conducted any work in the complainant's area during the disputed period.

After examining all the information provided, the Investigation Officer was satisfied that there were no faults or errors on the service that would have affected the accuracy of the meter. Although there had been a delay in conducting one of the tests, this delay would not have affected the outcome. However, in recognition of the delay, Telstra offered the complainant a three-month customer service guarantee, totalling \$34.95.

26 NOVEMBER 1996

The Investigations Officer wrote a letter advising the complainant that, based on all the information that had been provided, the TIO could find no evidence of a fault on her service.

The Officer advised that although there had been an increase in calls during the April/May 1996 period, all the information provided indicated that this was caused by legitimate increase in usage, rather than a fault.

Further, the Officer advised that the TIO believed Telstra's offer of \$34.95 as a goodwill gesture was a reasonable resolution of the complaint and that the TIO would not recommend that any further adjustments be made to the account.

The Officer requested that the complainant contact the TIO within 7 days if she was not satisfied with the response, otherwise the TIO would assume she accepted the response and would close the case.

30 NOVEMBER 1996

The complainant contacted the TIO to thank the Officer for efforts in investigating her Complaint. Although Ms Smith was not entirely pleased with the rebate that had been offered to her, she acknowledged that it was a reasonable compromise between both parties. The case was subsequently closed.

COMPLAINANT SATISFACTION RESEARCH

The TIO commissioned research conducted by independent research company, Sterley and Associates, to measure our complainants' satisfaction with the TIO's procedures.

The research covered a representative sample of cases taken from the last quarter of 1996 and all disputes from 1996. Researchers also surveyed people who made enquiries over a two-week period in April 1997.

The results were very positive, indicating a high degree of satisfaction with the way the Investigations Team worked, and that less fulsome praise was usually related to a negative outcome to a case.

In terms of awareness, the research indicated that most people heard about the TIO via word-of-mouth, or a telephone directory. The research also confirmed a need for carrier and service providers to advise their customers about the existence of an independent arbiter.

Interestingly, the research also showed that people had low expectations of service and were impressed with the TIO's service, particularly in being able to speak directly to someone who could handle the complaint from the outset.



Research also revealed some problems in our explanation that we are 'an office of last resort'. Many respondents felt that they had already exhausted all avenues, and were frustrated if directed back to their telephone company. People argued that telephone companies should make it clear whether customers have a further right of review within the company.

As a result of the research, the TIO changed its internal review processes to be more transparent, ensuring that complainants are advised of the right of review, and of the person to whom this request for a review should be directed.

One of the key findings of the report was that there was "...an overall sense of a lack of regimentation, policies or procedures which are obstacles in the way of being given a fair and efficient hearing...".

Overall, the research confirmed that the TIO has effective procedures and a high level of client satisfaction, standards which will remain a challenge in the face of an increasing workload.

TELSTRA'S INTERNAL COMPLAINT HANDLING: THE ROLE OF THE CUSTOMER REFERRAL CENTRE

Research found that people with complaints against Telstra, who felt they had already exhausted all avenues, were frustrated when referred back to Telstra's Customer Referral Centre (CRC) by the TIO. Though not part of Telstra's internal escalation process, the TIO referred callers to the CRC for consistency.

Following the survey findings, the TIO discussed with Telstra the effectiveness of referrals to the CRC. Statistics show over 50% of cases were referred, with a large proportion of the complainants finding resolution. However, in view of caller frustration levels it was agreed that the TIO would make greater use of its discretion to take up cases that might previously have been referred. This change will be monitored over the next six months to determine actual referrals and the implications for the TIO's complaint handling procedures.

INVESTIGATIONS: THE WORK WE DO

*In the financial
year 1996/97,
the TIO logged
a total of
43,715 cases*

THE YEAR IN REVIEW

In the financial year 1996/97, the TIO logged a total of 43,715 cases, representing a 62.48% increase over the 26,905 logged in the previous financial year. Of these, 39,874 were through our free call line, 3,735 were in writing, 103 were in person, and three via the TTY service. Actual cases were raised from 68,696 calls, representing a 51.07% increase in calls over the previous year, with more than half (36,514) being made during the second six months, indicating an acceleration in complaints. These figures represent a case-to-call ratio of about 65%.

Of the 43,715 cases logged during 1996/97, many are Enquiries not allocated to a member as they are out of jurisdiction or requests for more information about the TIO. These account for 8,871 cases, leaving 34,844 'allocated' cases for reporting purposes.

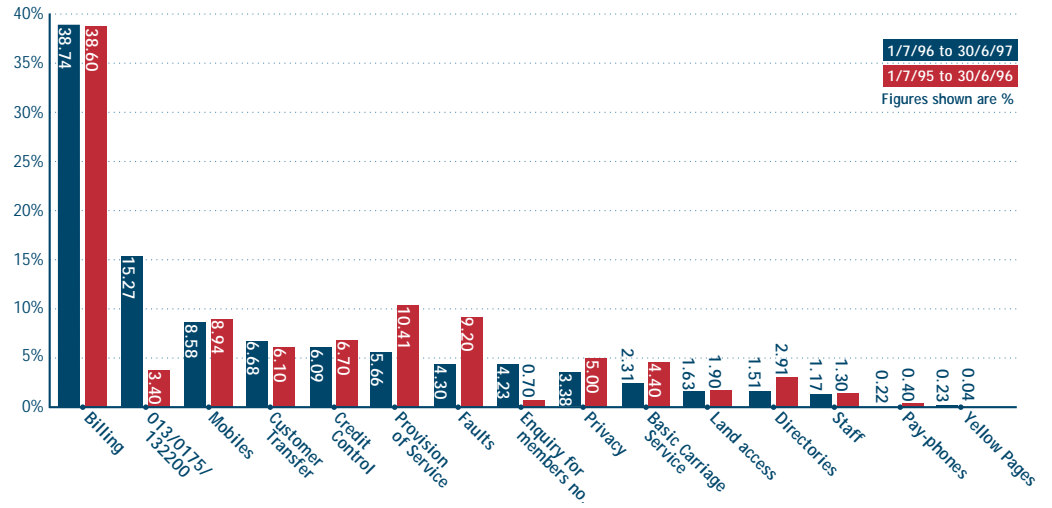
Investigations Officers, of whom nine are full-time and one part-time, maintain high levels of service and efficiency, despite frequently stressful demands. Each officer has an area of speciality (for example, land access, directories, and privacy), which allows for valuable cross-team resourcing, as well as time for special issues.

A breakdown of figures indicates that the TIO is increasingly a source of simple information, referral and advice to callers. Fewer than 5% of cases require detailed investigation although approximately 50% of an Investigation Officer's time is spent on these cases.

As well as complaints about faults, provision of service, privacy, and billing (about which we receive the largest number of complaints), the TIO receives a large number of calls from people seeking directory assistance, or information about services such as bill payment.

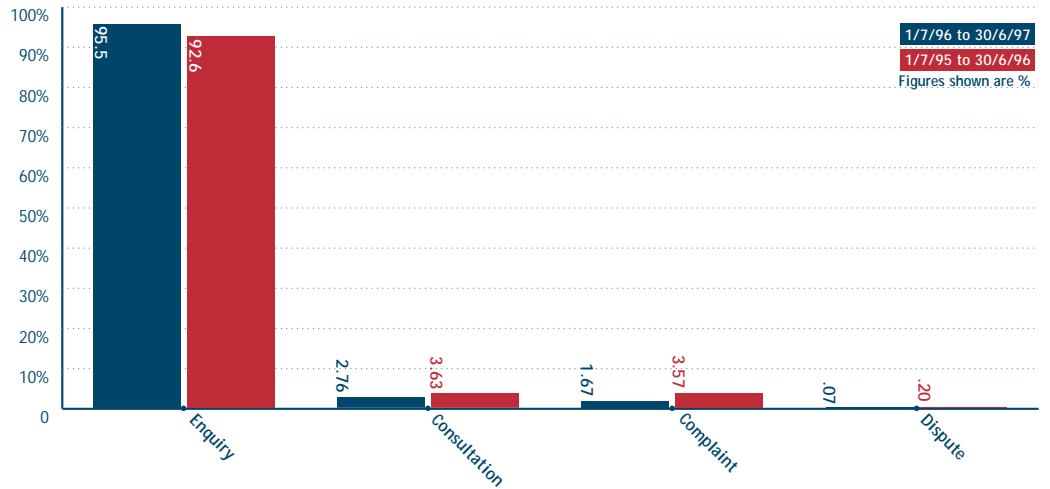
COMPARISON OF INVESTIGATION ISSUES 1996/97 AND 1995/96 (This graph is based on allocated cases only)

The largest number of complaints received are about billing.



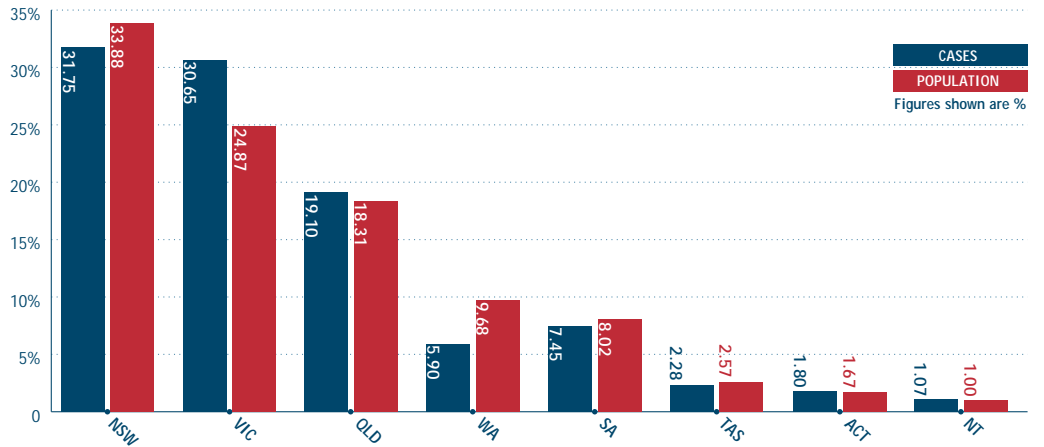
COMPARISON OF CASE MIX 1996/97 AND 1995/96 (This graph is based on allocated and non-allocated cases)

These figures illustrate the consistency of the TIO in dealing with cases.

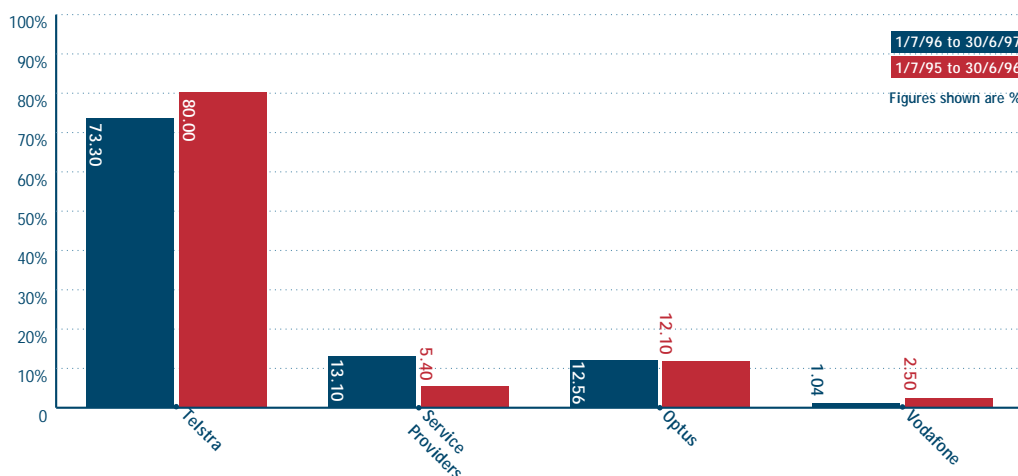


COMPARISON OF CASES WITH STATE POPULATION 1996/97 (This graph is based on allocated and non-allocated cases)

State-based statistics reflect differences in regional service issues and in awareness of the TIO.



COMPARISON OF CASES FOR CARRIERS AND SERVICE PROVIDERS 1996/97 AND 1995/96 (This graph is based on allocated cases only)



Cases logged against Telstra are decreasing each year, partly due to the influx of service providers, both into the industry, and as members of the TIO Scheme.

Accordingly, in February 1996, the TIO introduced these two reporting categories to its complaints database, and this accounts for some discrepancies between the two years in issue percentages.

There have also been some significant changes in the state-based statistics: in financial year 1995/96, Queensland accounted for 24.7% of cases, decreasing to 19.10% in 1996/97; on the other hand, Victoria increased from 23% to 30.65%, and Western Australia remains consistent at just under 6% of cases, while accounting for almost 10% of the total population.

In terms of cases logged against specific members, it is interesting to note that Telstra dropped from 89.7% in financial year 1994/95, to 80% in 1995/96, to 73.3% in 1996/97. This is, no doubt, partly due to the influx of service providers, both into the industry, and as members of the TIO Scheme.

Details of all cases in our Case Management System (CMS) provide statistics for internal and external purposes. With the addition of Internet Access Providers to the Scheme, the TIO intends to report separately on carriage-related issues and internet-related issues to ensure adequate statistical analysis.

SMALL BUSINESS CASES

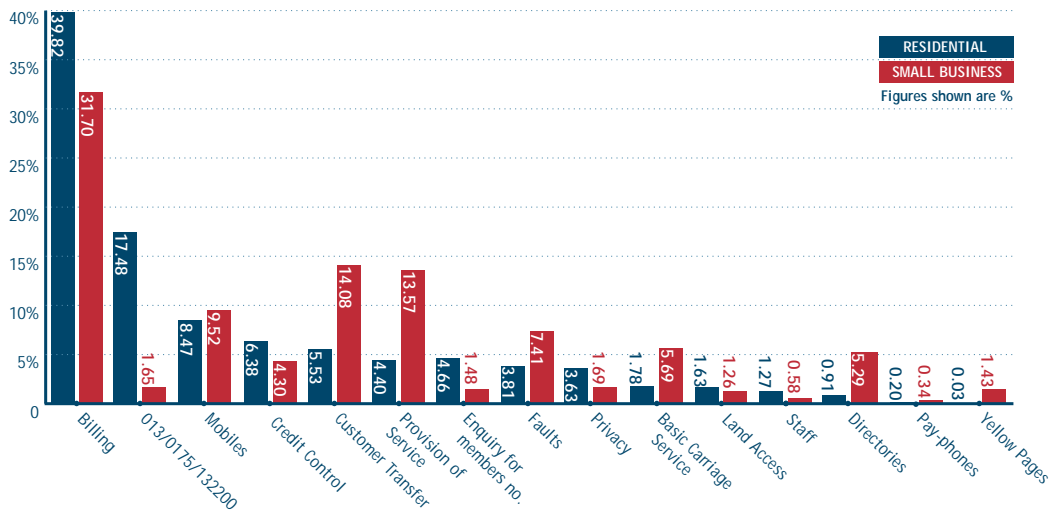
The TIO Scheme provides an important service to small business users of telecommunications services. Overall, the number of cases increased by 62.5% during the 1996/97 financial year, while small business cases increased by 48% (from 4,100 to 6,080 cases). Although the proportion of small business cases in the total fell, the 'raw' increase of nearly 2000 is still a cause for concern.

An analysis of small business cases over the past two years reveals a growing number of problems directly attributable to a complex marketplace and the wide range of 'new' providers from which small businesses derive services. As a result of government-induced competition, there are now more participants in the industry, many offering only parts of a single service formerly provided by one carrier. Understanding who is responsible for the respective component parts can cause confusion, especially if a fault or problem occurs.

Telecommunications is changing the way business operates. Yet, a lack of understanding about telecommunications, greater choices and rapidly developing technology have, in the short term, created a problematic environment for small businesses.

Billing problems remain at the forefront, with cases in this category increasing from 25.6% to 31.7% of all business cases. The opportunity for greater choice of carrier/service provider has elevated carrier selection/customer transfer complaints from 5th to 2nd place (from 7.4% to 14.1% of cases). Provision of service remains an area of concern at 13.6%, (although down from 16.6% the previous year). The other significant areas of concern continue to be mobile phones at 9.5% (down from 12.9%) and faults (7.4%, down from 12.4%). These

COMPARISON OF SMALL BUSINESS AND RESIDENTIAL CASES 1996/97 (This graph is based on allocated cases only)



Small business cases increased by 48% during the 1996/97 financial year.

five categories cover more than three quarters of all business cases handled by the TIO.

In comparison with residential consumers, small business users have greater problems with customer transfer, provision of service, mobiles, faults, basic carriage services, White Pages and Yellow Pages. As noted earlier, billing is the major problem for both classes.

Case analysis reveals patterns of problems arising from the 'free market' of services: misconceptions about information given, unrealised claims, decisions apparently made on verbal promises, and incomplete understanding of new and developing technology. These issues point to a need for greater customer awareness combined with better information and customer service standards from suppliers.

OUTCOMES

A comparison of the outcomes of Consultations and Complaints for 1996/97 with the 1995/96 year shows that the TIO is maintaining its effectiveness in terms of cases resolved substantially or partially in favour of the complainant.

As noted in last year's Annual Report, however, care must be taken in assessing these figures, although they are usually regarded as a traditional measure of success for complaint handling schemes.

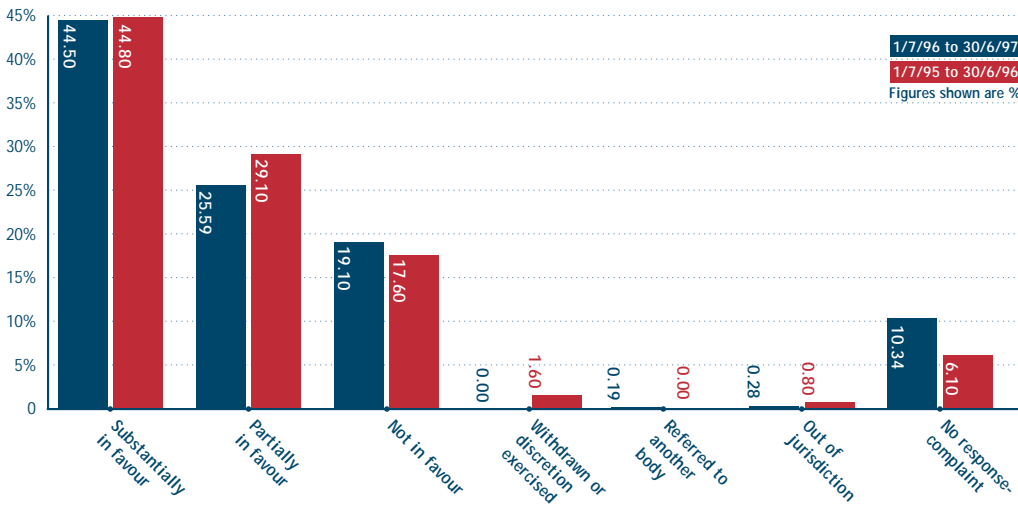
While the TIO reports on outcomes each year, they are not regarded as the sole measure of the success of the Scheme but are considered an important indicator. To adopt such an approach would defeat the very essence of the role of the Ombudsman and TIO Investigations Officers — the independent and impartial handling of cases.

There were 43 Disputes resolved during the 1996/97 year, including a number of cases outstanding from the previous year, while 28 cases were raised to the level of Dispute during 1996/97.

Disputes are resolved by way of Conciliation, a binding Determination by the Ombudsman, a further recommendation by the Ombudsman or by independent Arbitration which is administered by the TIO.

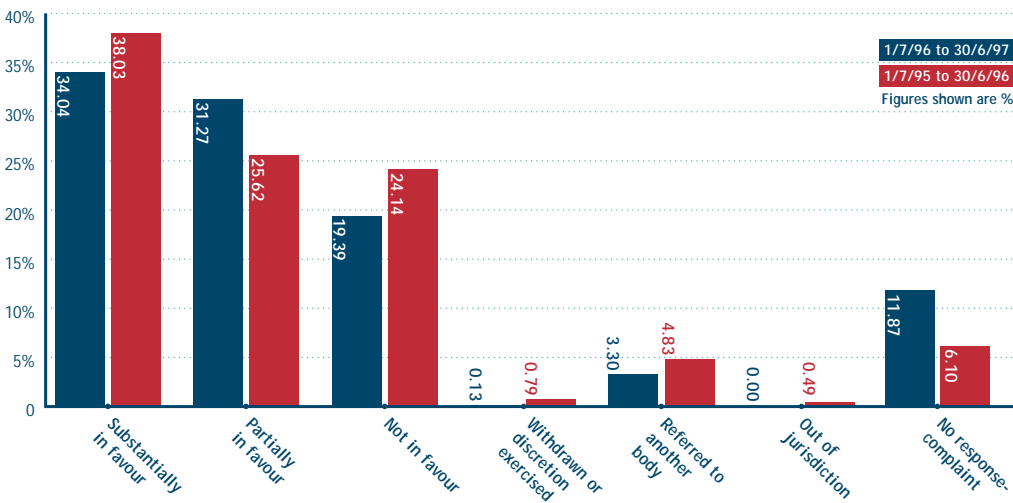
There were no Recommendations or Arbitrations conducted by the TIO in 1996/97.

COMPARISON OF OUTCOMES FOR CONSULTATIONS 1996/97 AND 1995/96

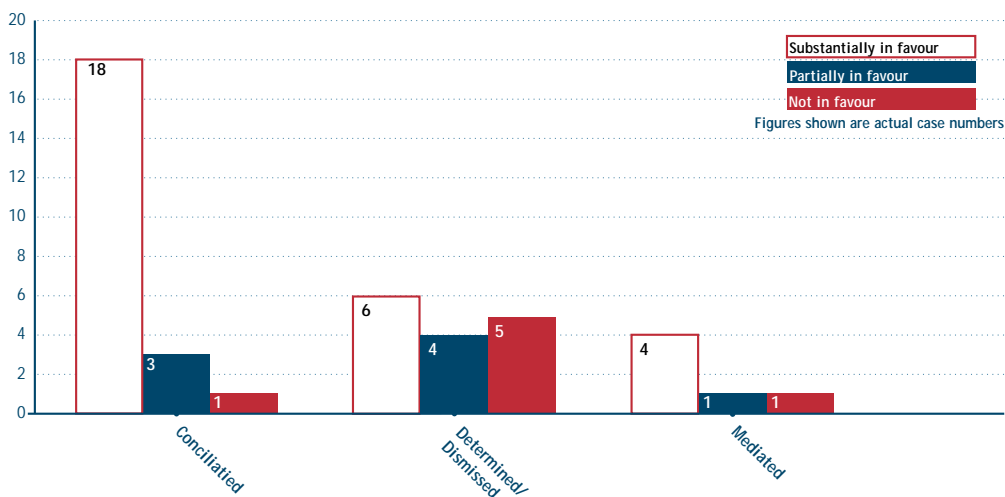


These graphs illustrate that a majority of cases are resolved substantially or partially in favour of the complainant.

COMPARISON OF OUTCOMES FOR COMPLAINTS 1996/97 AND 1995/96



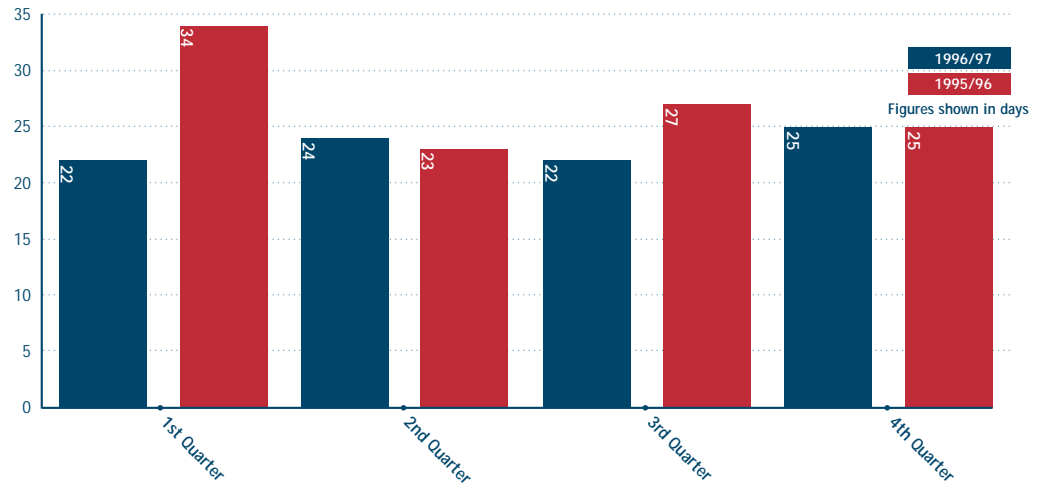
OUTCOMES FOR DISPUTES 1996/97



A clear majority of Disputes were resolved in favour of the complainant after they were raised to the status of dispute following detailed investigation and evidence in support of the complainant, which the member company has failed to accept.

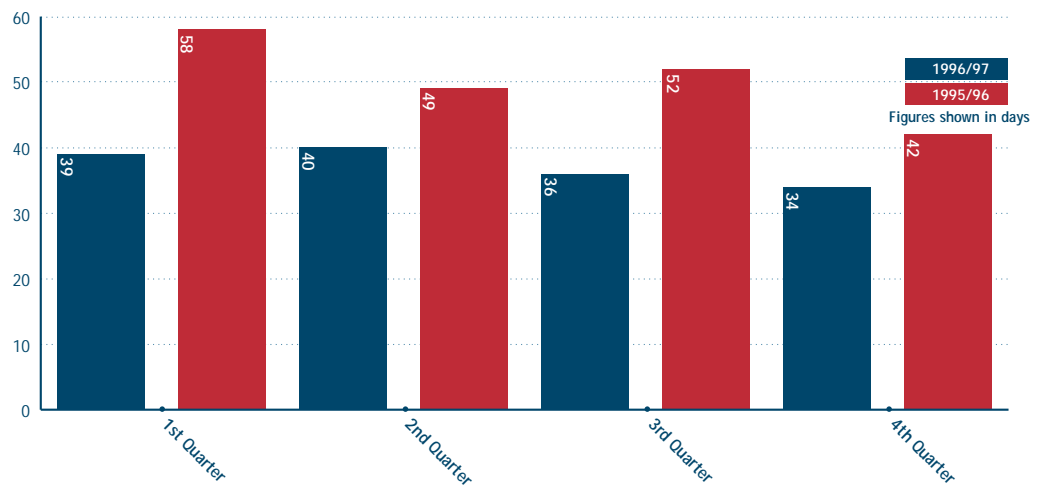
In the last year, the average resolution time for a consultation has decreased by four days.

COMPARISON OF TIME TAKEN TO RESOLVE CONSULTATIONS 1996/97 AND 1995/96



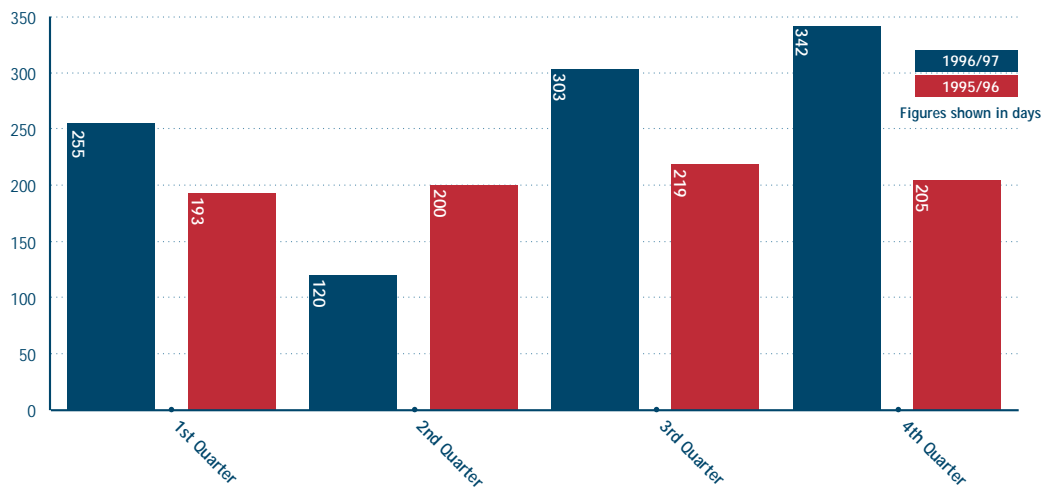
In the last year, the average resolution time for a complaint has decreased by 13 days.

COMPARISON OF TIME TAKEN TO RESOLVE COMPLAINTS 1996/97 AND 1995/96



Dispute resolution times vary in each quarter, ranging from 120 to 342 days.

COMPARISON OF TIME TAKEN TO RESOLVE DISPUTES 1996/97 AND 1995/96



Figures show that a far greater number of Disputes have an outcome favourable to the complainant, whether this is achieved by conciliation or by the making of a binding determination.

This difference reflects the fact that cases are usually raised to Dispute where the results of a detailed investigation at Complaint stage shows that the evidence favours the complainant, although the member concerned has failed to accept this fact.

TIME-FRAMES

In the past year, the TIO has been able to maintain performance in the face of rising case levels, and has also improved resolution times for both Consultations and Complaints.

In 1995/96, the average resolution time for Consultations was 27.25 days. In 1996/97, this average dropped to 23.25 days. Members of the Scheme are given 14 days to attempt the resolution of Consultations. Because the TIO does not close a Consultation until seven days after writing to confirm the resolution with the complainant, the minimum resolution time of these cases is 21 days.

The picture is similar for resolving Complaints, with average resolution times dropping from 50.25 days in 1995/96, to 37.25 days in 1996/97. Members have 28 days to attempt to resolve cases with the TIO: again, because the TIO closes a case no sooner than seven days

after writing to a complainant, this results in a minimum resolution time of 35 days. This performance improvement is a tribute to TIO Investigations Officers and the members of the Scheme. It will be a test of the Scheme's efficiency to maintain these results in 1997/98.

In the past year, the average resolution time for Consultations decreased by 4 days.

Dispute resolution times vary in each quarter of 1996/97, ranging from 120 to 342 days. These variations are accounted for by sometimes conflicting factors, including completing some simpler cases in the second quarter, and finalising a backlog of longstanding cases in the final quarter.

The principal underlying factor for the slow average resolution times for Disputes, however, is that increasingly, only the most complex and difficult cases are now progressing to dispute level. Disputes now account for only 0.07% of cases, as against 0.2% in 1995/96, but by definition these are the most difficult to resolve.

Also, cases in which the compensation in question is less than \$250 may now be determined at Complaint level, whereas previously these had to be raised to a Dispute level.

INVESTIGATIONS: RECENT ISSUES

AMPS PHASE OUT

In the second half of 1996, the first stage in the progressive phase-out of the Analogue Mobile Phone System (AMPS) network was announced by the Minister for Communications. The withdrawal of the AMPS spectrum theoretically coincides with a reduced demand for an analogue service as consumers migrate to digital networks. If such a reduction in demand occurs, the quality of service of the AMPS networks should not be affected in the lead up to the network closure on 1 January 2000.

Complaints from analogue users who claim a deterioration of service since the spectrum was reduced constitute a small proportion of the complaints relating to the AMPS phase-out. However, they may indicate a higher usage of the AMPS spectrum than AUSTEL reports: AUSTEL claims spectrum usage has decreased to around 70% of capacity.

Furthermore, the number of complaints relating to the AMPS phase-out in the six months following 1 January 1997 were double that of the preceding six months. The TIO will continue to monitor the number of complaints, particularly following the next reduction of the AMPS spectrum in July 1997.

The increase in complaints relating to AMPS phase-out contrasted with a gradual decrease of AMPS complaints in general. Over the last financial year, AMPS complaints were only 10.2% of total mobile complaints. However, of this 10.2%, 33% related to AMPS phase-out, making it the largest area of complaint in relation to the analogue service.

Many of those complaints were from analogue users who object to the closure of the analogue network because there is no digital coverage

in their respective areas. Of all mobile complaints received by the TIO in the last financial year, 1% related to analogue coverage, and 14.9% related to GSM (digital) coverage. These figures confirm that digital coverage remains a significant issue for customers.

MOBILE CONTRACTS

Contracts for digital mobile telephones are another major area of complaint amongst small business and residential mobile phone users. Complaints seem to be the result of users not understanding the contract, particularly the terms and conditions of supply of service.

Although the TIO encourages voluntary full disclosure of relevant contract conditions at the point of sale, this is not always done. It is therefore up to the mobile phone users to take the initiative to protect their interests by asking dealers or salespeople questions such as:

- how much is the connection fee?
- what is the monthly access fee?
- what are the minimum call charges?
- how long is the contract (12, 15, 18 or 24 months)?
- can I upgrade a plan without incurring any penalties?
- what notice must be given when terminating the contract?
- are there any termination fees?
- what is the coverage in the area where the phone will be used?
- can I see coverage maps?
- can I transfer the contract to another party?
- is insurance available?

Contracts for digital mobile telephones are another major area of complaint amongst small business and residential mobile phone users.



Many mobile telephones are sold cheaply, and the true cost of the handset is recouped through a fixed term call plan. However, many people are unaware that, if the handset is lost or stolen before the end of the contract, they are still obliged to pay access fees for the remainder of the contract.

A small number of service providers now offer digital mobile services without a contract, giving the user the freedom to switch to another service provider at any time. Some service providers also offer pre-paid SIM cards, targeting customers who are refused mobile digital contracts for credit reasons, or who want to maintain tight budgetary control over their mobile phone use.

DELAYS IN CUSTOMER TRANSFERS OR CHURN

Since 1991, the Australian public has had the opportunity to choose their long distance eligible carriage service provider. Initially they were given the option of using Optus, and now there are other service providers entering the telecommunications market.

The procedure for transferring to another carrier differs from company to company, and is not always obvious to the user. For example, transfers can be unknowingly effected by filling in forms, newspaper advertisements, or signing information provided by door knockers. The TIO advises consumers to carefully read before signing and to understand that a transfer means they will lose the direct relationship with their previous carrier or service provider. Thus, for example, if consumers need an extra telephone service installed or a fault rectified, they should contact the carriage service provider with which they are currently signed, even though they may be used to contacting Telstra.

The TIO has received an increase in the number of enquiries from customers who state that they are being billed by service providers with which they have never signed contracts. Investigations by the TIO have ascertained that through human error, wrong numbers have been entered in the transfer process, resulting in a transfer for the wrong customer. The TIO refers to these cases as unauthorised churning. Such incidents make up 15.6% of all customer transfer cases, of which there were 2,328 in the last 12 months.

In some cases, a family member or friend has signed a service over to a carriage service provider, representing themselves as the lessee of the service. Because carriage service providers cannot access Telstra's database to identify the lessee of a telephone service, they accept the word of the person signing the form. Furthermore, Telstra cannot police the transferring of services because it recognises the legitimacy of choice.

Consumers wishing to return their telephone services to Telstra are required to complete the relevant transfer forms, available through general enquiry numbers at Telstra. In the experience of the TIO over the past year, this transfer can take three months, or more.

BACK-BILLING

Back-billing occurs when an account includes charges for calls made prior to the usual billing period.

Telephone users of both fixed and mobile services may, at any time, receive an account with these delayed charges, and the incidence is likely to increase in a multi-carrier environment.

With the exceptions of international roaming calls and reverse charge calls from overseas, call charges generated in Australia are the responsibility of the carrier or service provider which has control over billing. The level of control, however, is much debated because, in the current processes of call data transfer, billing delays can be the result of problems between carriers. For example, a wave of complaints in early 1997 involved delays in charging for Optus mobile satellite calls being made from Telstra PSTN services. Many complainants were not impressed by delays in charging of up to 12 months.

In this situation, Telstra relied on its Back-Billing Policy which enabled it to bill for calls up to 12 months old, on the condition that the consumer was made aware of the delay, and the reasons for it, in writing. In this case the TIO would only take up a case if this written notice had not been provided.

The TIO holds the view that a back-billing period of no more than 90 days is reasonable, excluding the billing period and determined from the date of the issue of the account. This means that charges should not exceed four months for a monthly account or six months for a quarterly account. This view has been accepted by some carriers and service providers, with exceptions made for calls that involve billing from networks in other countries or international mobile roaming. Service providers who must rely on carrier billing feeds in order to on-bill their own customers have told the TIO that, while they would support such a view in principle, it would cause commercial hardship in their present circumstances.

The TIO has highlighted back-billing in previous annual reports, because of its relevance to the industry. A specific standard which is accepted by all parties is much needed to give members of the TIO Scheme and complainants greater awareness of reasonable billing practices. Until such a standard is accepted by all parties, the TIO will continue to raise the issue of back-billing so that the industry is aware of its potential as a major source of complaints. The TIO hopes to encourage service providers and carriers to provide back-billing policies that are more customer-friendly.

*Back-billing occurs
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SERVICE AND EQUIPMENT REFUNDS ON NEW-LOOK TELSTRA ACCOUNTS

Over the last 12 months, Investigations Officers have been fielding enquiries regarding Telstra's new-look accounts, which itemise service and equipment charges. After reviewing their accounts, some complainants find that they have been charged for services such as telemeters, outside bells, lockable phones, handset rental and other products they claim they have never requested or do not have.

Complainants state that upon contacting Telstra they have been offered refunds of charges ranging between 12 months and five years, depending on the time they have had the service connected and how long they believe the listed item has been incorrectly charged.

OPTUS 190X CALLS/PRESELECTIONS

The TIO receives a high number of calls from consumers complaining about being billed by the carrier who is not their pre-selected provider. This indicates a continuing lack of awareness among consumers that certain calls are not pre-selectable. For example, if a consumer makes a 190 information call, he or she is billed by the carrier chosen by the provider of the information which may or may not be the consumer's pre-selected carrier. Similarly, the consumer does not select the network through which an incoming reverse charge call is directed.

Many Telstra customers complain that they are billed by Optus when dialling an information call number or accepting a reverse charge call.



With the increasing availability of Optus local calls, the TIO expects to begin to receive complaints from Optus customers who have been billed by Telstra. In either case, once a call has been placed through another carrier's network, the consumer's pre-selected carrier is obliged to pass on sufficient information to the other carrier to effect the billing. If a customer's line is silent, billing information is passed on with a silent line indicator so that the other carrier knows to implement any silent line protections.

The continuing number of cases received by the TIO is a major issue for concern, and it highlights a need for greater public awareness about calls that are not pre-selectable. One solution may be to include a simple message in advertisements for information calls that informs consumers of the carrier that will bill them for the call.

TOTAL CALL RECORD CHARGING (TCRC)

A significant change to billing during 1997 was the introduction of Telstra's Total Call Record Charging (TCRC), that itemises local calls. As Telstra progressively upgraded exchanges to allow for this facility, many customers could choose to obtain detailed listings of local calls made from their service. Telstra is not proposing, at this stage, to automatically include this information on telephone accounts. Furthermore, a \$5 charge for the additional information will normally apply, although, where the consumer disputes calls, the charge may be waived. The TIO looks forward to reviewing the impact of TCRC on cases concerning local call charges.

PRIVACY AND THE TIO

An important role of the TIO is to investigate complaints of alleged interference with an individual's privacy, that is, of non-compliance with the Information Privacy Principles contained in the *Privacy Act 1998* or with any applicable industry-specific standards such as the *Telecommunications Act 1997*.

Privacy principles relate to the methods used to collect personal information; the way such information is stored and kept secure; how that information may be used or disclosed to third parties; the

accuracy of records; and access by individuals to their own personal records.

Although the government's privacy legislation principles still do not expand into the business sector, this jurisdiction already exists with the TIO through its specific Constitution and through the *Telecommunications Act 1997*, which places strong privacy restrictions on telecommunications carriers and service providers. The Act also provides exemptions for disclosure of information to the TIO, for investigative purposes.

Most privacy-related enquiries and complaints to the TIO are allegations of unauthorised disclosure of 'silent' (unlisted) numbers, disclosure of PIN telephone control numbers, the interception and recording of telephone conversations, and disclosure of personal credit or billing information. The intrusive use of the telephone, particularly some forms of telemarketing and the rules for recording telephone conversations are still grey areas.

A big test of the adequacy of privacy protection will be provided by Calling Number Display technology which some carriers plan to introduce in coming months. At present, there is little to stop unscrupulous businesses from improperly using records of stored numbers of people who have called them.

Similarly, there are no uniform laws which lay down procedures for informing a telephone caller when a conversation is being recorded, or what callers' rights are should an organisation not covered by the telecommunications legislation record a conversation improperly.

The Australian Communications Industry Forum intends to develop a Code of Practice relating to privacy with particular reference to the areas of protecting personal information, the intrusive use of telecommunications, and the monitoring and recording of communications.

While such industry self-regulation is welcomed, the ability of electronic recording and storage devices to intrude into everyday life calls for a co-regulatory regime of industry codes, underpinned by uniform national privacy laws.

Whether statutory or industry-based, the jurisdiction of an Ombudsman Scheme changes as it gains importance or expands to meet new developments. The TIO is no exception, and it continues to evolve to accommodate issues such as the Internet and the changes introduced by the Telecommunications Act 1997.

Apart from the expansion of the mandatory membership base, several significant increases in the TIO's jurisdiction will come into effect in 1997/98.

FUTURE JURISDICTION

INTERNET ACCESS PROVIDERS

The supply of a carriage service allowing an end-user to access the Internet is the defining criterion of an Internet Access Provider (IAP) — often confused with Internet Service Providers (ISP). All IAPs must join the TIO Scheme from 1 July 1997 and it is the term 'access' which defines the TIO's jurisdiction.

People or companies who call themselves ISPs but do not provide internet access are not under TIO jurisdiction and need not join the Scheme. For example, the development of Web Sites does not involve the supply of a carriage service which enables an end-user to access the Internet and, consequently, is outside the Ombudsman's jurisdiction.

The TIO will not deal with complaints relating to the content of services provided over the Internet. Nor will it deal with issues related to financial transactions across the Internet. Intra-industry complaints and computer hacking are also outside TIO jurisdiction.

The TIO is aware that the rapid growth and development of communications over the Internet will have an impact on the number of consumer complaints about internet access and will be keeping abreast of such developments. As technology and industry sectors converge (internet telephony, for example) related complaints are likely to become of major importance to the TIO in future.

CODES OF PRACTICE

The telecommunications industry faces an important task — to develop comprehensive Industry, or Consumer, Codes of Practice, as mandated under Part 6 of the *Telecommunications Act 1997*. This is a key facet of self-regulation.

Briefly, the Act empowers the Australian Communications Authority (ACA) to determine that any group of participants in the industry is a section of the industry for the purpose of developing Codes. The Act identifies various types of telecommunications activities in relation to which Codes may be developed, such as carrying on business as a carrier or carriage service provider, supplying goods or services in connection with a carriage service and manufacturing or importing customer premises equipment.

The Act also provides a fairly exhaustive list of Codes that may be developed including:

- communicating with customers about goods and services on offer and the prices, terms and conditions under which they are offered;
- privacy, particularly the protection of personal information; the intrusive use of telecommunications; monitoring or recording communications and calling number display;
- accuracy of billing of customers and the timeliness and comprehensibility of bills;
- internal handling of customer complaints.

The ACA has the power to request the development of Codes and to register them, provided it is satisfied, amongst other things, that the Australian Competition and Consumer Commission (ACCC), the TIO and at least one consumer group have been consulted.

Adherence to Codes is voluntary. Nevertheless, where it is satisfied that there is or has been a breach of a Code, the ACA reserves the power to direct an industry participant to comply with a Code and to issue formal warnings to a participant about any contravention of a Code.

Where the industry does not develop a Code, as requested, or where a Code fails to fit the purpose, the ACA may determine a mandatory Industry Standard.

The above encapsulates the industry's regulatory framework for Code development. As the outline of this legislation became clear in October 1996, industry participants established a Consumer Codes Working Group. Both consumer groups and the TIO were represented to prepare guidelines for the development of Codes which are now approved by the Australian Communications Industry Forum (ACIF). (As the peak industry self-regulatory body, the ACIF subsumes the Code Working Group's task of actually developing Codes through a Code Reference Panel.)

Already, the Working Group has identified prices, terms and conditions of services and privacy as priorities for Code development, producing scoping studies in both areas. A voluntary Mobile Change of Service Code has also been distributed to industry participants.

Apart from consultations, the TIO seeks to participate actively in the development of some Codes, including those for prices, terms and conditions of services and, particularly, the internal handling of customer complaints, an area of TIO expertise.

Finally, the Act makes it clear that Codes or Standards may, with the Ombudsman's consent, confer powers on the TIO. The principal function envisaged is that the TIO will investigate and make

determinations on consumer complaints about contraventions of Codes. The TIO will not handle industry complaints about breaches of Codes: these require a mechanism to be developed within ACIF.

The TIO will investigate and make determinations on consumer complaints about contraventions of codes.



CUSTOMER SERVICE GUARANTEE

The Customer Service Guarantee (CSG) now contained in Part 9 of the *Telecommunications Act 1997* provides that AUSTEL or its successor, the Australian Communications Authority (ACA), may determine the customer service performance standards to be adhered to by carriage service providers (including carriers). Further, the ACA can also determine a scale of damages to a maximum of \$25,000 for performance standards breaches.

In particular, performance standards will cover the period taken to comply with requests for connection of services; the periods that may be offered to customers when making those arrangements and compliance with those terms; the period taken to comply with requests to rectify faults or service difficulties; and the keeping of appointments with customers to deal with these matters.

On customer request, the Ombudsman can issue an evidentiary certificate, which will be prima facie evidence of its contents, stating that a specific carriage service provider has contravened a performance standard and setting out particulars of the contravention.

Obviously, the TIO would conduct a preliminary investigation of a customer's complaint before issuing such a certificate. Once issued, a customer could use the document in any proceedings in a court of competent jurisdiction against the carriage service provider concerned.

The Ombudsman has advised the Minister for Communications and the Arts that he consents to the conferral of this power. It remains to be seen how many consumers would choose this type of remedy, given the uncertainties and costs of any litigation.

Alternatively, the CSG allows for customers of carriage service providers to bring complaints about breaches of performance standards before the TIO for investigation and determination in the usual manner.

This provision reflects a submission made by the Ombudsman to the Senate Environment, Recreation, Communications and the Arts References Committee when it was considering the CSG as part of the Telstra (Dilution of Public Ownership) Bill.

In such a case, the current \$10,000 limit on the Ombudsman's power of determination would apply, and should be adequate given the nature of most complaints.

CABLE/PAY TV

The provision of cable or pay TV services is outside the jurisdiction of the TIO as is their content, even though Optus Vision and Telstra Multimedia, as holders of carrier licences are required to be members of the TIO Scheme.

While the legal reasons for this curious situation are complex, essentially it is possible that an operator may be a carrier but not an eligible carriage service provider, because none of the services provided by the carrier are of the type that requires membership of the TIO, e.g. supply of the standard telephone service; supply of a public mobile telecommunications service or the resale or aggregation of those services.

Initially, this raises the question of the utility of a carrier providing only cable or pay TV services joining the TIO. However, it is more than likely that in the future such carriers will provide other services, e.g. access to the Internet which will bring them under the TIO's umbrella.



INVESTIGATION ISSUES

*Basic Carriage
Billing
Customer Transfers
Credit Control
Directories
Faults
Land Access
Mobiles
Privacy
Provision of Service
Staff*

BASIC CARRIAGE SERVICE

Enquiries: 756

Consultations: 24

Complaints: 21

Disputes: 4

The BCS refers to carriers' Basic Carriage Service tariff, lengthy documents prepared under the *Telecommunications Act 1997* that outline the services and tariff schedules. Now that the 1997 Act is in force, Telstra's BCS will take another form, although for the purposes of TIO investigative work, the BCS is a useful category for recording complaints referring to the tariffs of all carriers and service providers which are often disputed. (The BCS category accounts for only 2.31% of TIO cases.)

It is important to understand that the setting or approval of actual tariffs of carriers and service providers is a commercial matter, over which the TIO has no jurisdiction. In contrast, charging arrangements, problems with enhanced services, contract terms and conditions, provision of services and related charges, liability of carriers and number allocation are current issues, particularly with the advent of the new regulatory regime, effective as of 1 July 1997.

CASE NOTE

A complainant called the TIO after contacting Directory Assistance to obtain a new business number when the new numbering plan came into effect. The complainant was quoted an incorrect number by the operator, but was not aware of this until she had printed 10,000 business cards with the incorrect number.

The carrier considered the argument, researched its operator record data and decided to grant a credit to her account of \$446, the cost cited for reprinting the business cards.

CASE NOTE

A complainant disputed a labour charge for the installation of a phone line, claiming that the technicians had not worked for the time billed and that the rates charged were excessive and not in accordance with other trade rates, given the difficulty of the work.

The case was raised as an Enquiry, but no response was received. This consequently upgraded the case to a Complaint. An investigation discovered that all charges were in accordance with the BCS tariff and that more work than the complainant was aware of had been performed both at the exchange and on the complainant's line. After the TIO explained this, the complainant was satisfied and paid the bill.

BILLING

Enquiries: 12,363

Consultations: 673

Complaints: 448

Disputes: 13

Billing issues consistently make up more than one third of all cases raised by the TIO. When cases are recorded, there is a distinction made between billing queries regarding the Public Switched Telephone Network (PSTN) and billing queries regarding Public Mobile Telephone Services (PMTS). The number of mobile billing cases has risen to 15.3% of the total, a slight increase from last year, while queries regarding the PSTN have decreased slightly to 84.7%. The biggest rise in billing cases regarding mobile telephones relates to the payment of accounts.

Although many cases result from customers' concerns about billing and charges, this does not necessarily equate to widespread technical errors or charging inaccuracies by the carrier or service provider. When investigating alleged billing inaccuracies, the TIO requests appropriate verification of the accuracy of the billing systems in respect of the particular customer's accounts. The TIO is largely reliant on the information provided by the carriers through technical testing. However, Investigations Officers also consider the customer's own call records, if there are any, along with the level of security at the household and access to the telephone service, and the account and fault history.

METERED CALLS

Complaints related to the alleged overcharging of metered (local) calls make up 20% of billing cases, a rise from 16% in the previous year. These cases are difficult to resolve, because carriers may have already conducted extensive technical testing of their equipment and billing systems by the time the customer has sought the intervention of the TIO. Many customers raise a question of the credibility of testing conducted after a dispute has occurred.

CASE NOTE

A complainant had a telephone line installed specifically to connect a modem, and then set up an account with an Internet Access Provider. After receiving the first telephone account from Telstra she queried the number of calls, which was significantly more than indicated by a print-out from the IAP. She then raised a complaint and Telstra conducted testing with Call Charge Analysis Equipment (CCAE), which confirmed the calls were all successful.

It was explained that there are two steps required to make an Internet connection. Firstly, the customer must make a successful telephone call from the computer to the IAP's facilities via a modem. Telephone companies recognise that a successful call has been made when the IAP's facilities pick up the phone. At this stage a phone connection has been made and a telephone bill item has been recorded. The IAP's facilities then attempt to communicate with the customer's modem to ascertain who has called and what service is requested. If this process does not succeed for any reason, the IAP's facilities will disconnect the call, and the customer may not realise that a successful call has been made.

BILLING CASES 01/07/96–30/06/97

PSTN	Call charges record	Cards	0.6%
	Call charges record	Delay	7.0%
	Call charges record	IDD	3.6%
	Call charges record	Info Calls (Australia)	12.1%
	Call charges record	Mobiles	2.7%
	Call charges record	Operator-assisted	1.2%
	Call charges record	Other Charges	3.6%
	Call charges record	STD	3.6%
	Call charges record	Partyline (IDD) calls	4.8%
	Non-provision of discount		1.6%
	Metered calls	Delay	0.7%
	Metered call	Dispute	19.6%
	Payment		17.7%
Service and Equipment, Flexi-Plans		5.9%	
		84.7%	
Mobiles	Call charges record	Delay	1.7%
	Call charges record	IDD	0.5%
	Call charges record	Info Calls (Australia)	0.7%
	Call charges record	STD	2.1%
	Call charges record	Partyline (IDD) calls	0.4%
	Call charges record	Other charges	0.0%
	Payment		9.3%
	Service and Equipment, Flexi-Plans		0.6%
		15.3%	

CASE NOTE

A complainant alleged that he had been overcharged for metered calls on a particular account. Before he contacted the TIO, Telstra had tested the service with Call Charge Analysis Equipment (CCAЕ) on the service and had sent the customer a report. The customer, however, claimed that there were numbers he did not recognise. He again contacted Telstra, and was told that further testing would take place, but that there would be a delay. In the meantime, the customer moved residence, making further testing of the service impossible.

As a result of the TIO's investigation, charges of \$642.57 were waived on the basis that, although the initial testing had indicated there was no fault, Telstra had not followed the correct procedures in handling the complaint.

CASE NOTE

A complainant believed he had been overcharged, arguing that with only he and his wife having access to the phone, and his wife away for part of the billing period, the number of calls made should have been fewer than normal. Telstra tested with CCAЕ on the service, but the complainant did not receive a report. The TIO raised a formal Complaint and all the testing was reviewed. In this case, the TIO supported the decision that the charges should stand, as there was no indication of any error in the billing or any faults with the equipment. After receiving all the documentation, the complainant was satisfied with the result.

'PARTYLINE' CALLS

While the TIO continues to receive calls from customers disputing partyline calls, the percentage of cases has almost halved from the previous year. 'Partyline' is the term used to describe IDD calls made to information services (for example, sex chat lines) operated in overseas countries. The reason for the decrease in calls relating to partyline calls may in part be related to an increased awareness of the costs of such calls, as a result of media publicity. As well, many households may be using preventative measures, such as IDD barring, to stop the incidence of unwanted or unauthorised calls.

Resolution of these cases can be particularly difficult because the charges can be quite high and the investigation itself can be sensitive, given the nature of some calls. It is not surprising that some customers may deny making the calls, and that some cannot accept that other family members may have made such calls.

As with other billing complaints, each case is considered on an individual basis according to testing and other evidence and information supplied by both parties. Such evidence may include raw call data, known as International Call Records/Gateway Dockets (which have a 99% accuracy level), or the results of a technical metering investigation. The latter involves an inspection of the complainant's telephone equipment to check for crossed lines, line tampering or other irregularities which may result in incorrect billing.

Where there is no evidence of any charging error, the TIO will generally support a decision not to alter the charges. Should there be an indication of doubt as to the integrity of the billing system or telephone service, the TIO will determine that the charges be waived.

In the majority of cases before the TIO, there is no evidence of technical problems and, in fact, evidence from complainants' calling patterns, including the interspersed of disputed calls close to undisputed calls, generally suggest call charges are correct.

CASE NOTE

A complainant was disputing \$63.99 of partyline calls on a particular account, arguing that all parties in the household were at work at the time the calls were allegedly made. She also stated that several months earlier she had arranged barring of information calls and IDD calls. The carrier sent a response which included documentation from its computer records. These notes indicated that, at the time claimed by the customer, there had been discussion about barring of 190 and 0055 calls but not specifically IDD. The carrier waived the charges, as it was viewed that if the customer had requested barring, it was a likely understanding that IDD barring would be included. In this case, the Customer Service Representative should have raised the issue of IDD barring, even if the customer only asked for 0055 and 190.

INFORMATION CALLS

Although the number of cases relating to information calls, which includes both 0055 and 190 calls, has decreased slightly in comparison to last year's figures, it continues to constitute a substantial percentage of billing complaints. This indicates that much confusion remains in the minds of consumers, and that there is a continuing need for community education about these calls and the availability of call barring.

Complaints about information calls tend to fall into two categories. The bulk of information call cases received by the TIO fall into the first category, where the consumer disputes having made the calls in question and these are dealt with in the same way as other billing complaints.

The second category is where the complainant does not deny making the call, but is complaining about the way in which the call has been billed. Many customers are unaware that the billing for particular types of numbers (including 0055 and 190) comes from a carrier with which the independent information provider has contracted. This is regardless of which carrier the customer has pre-selected. Consequently, customers are surprised when they receive an account from a carrier they have not chosen. The TIO is not in a position to assist these complainants as there is no policy or code requiring that a consumer is informed about specific billing arrangements prior to making the call.

Similarly, callers making information calls are often unaware of the rates charged, even though service providers must advertise the cost of calls. Where the rate is not advertised, complainants can be referred to the Telephone Information Services Standards Council (TISSC).

The TIO has no jurisdiction over the setting, or advertising, of charges for information calls. Similarly, the TIO's jurisdiction does not extend to complaints regarding the actual contents of such services. Accordingly, consumers who believe the service they received was mis-advertised or felt they did not get their money's worth are referred to the Telephone Information Services Standards Council (TISSC).

BILLING DELAYS

Billing delays include the situation where a customer transfers his or her service from a carrier to a service provider or vice versa. Unfortunately, delays in transferring services and in the subsequent issuing of accounts continue, and the TIO believes that significant improvement is needed in this area.

A related area of concern is back-billing, which can occur when a carrier or service provider has experienced technical difficulties with the receipt of billing information from another carrier or service provider, leading to a delay in the charges appearing on the customer's account. In 1997, Telstra experienced difficulties in billing customers who had called an Optus MobileSat service, although the degree to which each carrier contributed to this situation was not clear. As discussed earlier, following discussions with the TIO, Telstra had already reviewed and introduced a new back-billing policy whereby Telstra may bill for calls up to 12 months after the date of the call, but only if it notifies the customer, via the account or a separate letter, of calls older than six months and the reasons for the delay in charging.

PAYMENT ISSUES

As in the previous year, issues regarding payment of accounts generates the second highest number of billing cases after metered call cases. These include consumers who believe that the carrier has been unnecessarily harsh in not accepting a proposed payment arrangement or extreme in its decision to disconnect a service. The TIO is limited in the role that can be taken in these cases; ultimately the carriers and service providers can determine their own credit control procedures. The TIO can, however, confirm the carrier or service provider's policy, advise customers of their options, and mediate in those situations where it believes the action has been unreasonable.

CASE NOTE

A complainant was disputing delayed call charges to Optus MobileSat services on two separate accounts. On the first account, the calls were backdated six months and a bill message was included on the account. The second account contained calls backdated seven months but no bill message was included. Consequently, all calls beyond six months on the second account were waived.

CUSTOMER TRANSFERS

Enquiries: 2,138
 Consultations: 125
 Complaints: 64
 Disputes: 1

'Churn' refers to customer transfers. Customers can transfer their accounts to any telecommunications service provider they choose. In the past transfers have been completed by the customer filling in appropriate forms available directly from the chosen carriage service provider. In the future, Telstra will introduce a new procedure in respect of customers transferring back to it.

Cases concerning delays in transfer have been an increasing issue for Investigations Officers over the last twelve months and now account for 50% of all transfer cases. The TIO has introduced new procedures for contacting carriage service providers and determining whether and when authorities for transfers have been completed. With this information, Investigations Officers can then decide whether responsibility lies with the service provider gaining the customer, or the service provider losing the customer.

CUSTOMER TRANSFER CASES 01/07/96–30/06/97

Fixed Network	Delay	50.0%
	Fraudulent	28.7%
	Unauthorised	15.6%
Mobile network	Delay	1.7%
	Fraudulent	2.0%
	Unauthorised	2.0%

CASE NOTE

In May 1997, a complainant advised that he had been trying to transfer his accounts from AAPT to Telstra since May 1996, without success. Telstra stated that the account had been transferred from AAPT to Telstra in August 1996. Earlier, in September 1994, the complainant had signed a form to transfer the account to ASP Communications. Due to an inordinate delay, that form was not processed until August 1996, just after the account had been transferred to AAPT from Telstra.

The complainant had assumed that the form authorising the transfer to ASP had been lost, and did not realise that transfer had only been actioned in August 1996, nearly two years after submitting the transfer form. As the complainant did not receive any accounts during this period, the complainant had no idea that there was a third service provider involved. Once the consumer's account was located, appropriate action was taken to transfer the account.

CREDIT CONTROL

Enquiries: 2,039
 Consultations: 60
 Complaints: 23
 Disputes: 0

The proportion of cases relating to credit control issues has decreased slightly over the past 12 months.

The majority of credit control cases received by the TIO refer to the billing of old debts: consumers are advised of an outstanding debt for a previous service, yet no details are provided. If the debts were accrued more than a year ago, it is likely that the consumer no longer has receipts to verify payment. The TIO advises consumers that they should seek and obtain conclusive details of the debt from the carrier or service provider before making any payment.

A significant number of credit control cases over the last 12 months relate to barring issues. Barring is a method of credit control used by carriers to limit access in some form and can be used, for example, where a consumer is in the process of paying off an outstanding debt or is a new consumer trying to establish a good payment history. In some cases, restrictions can be placed on a consumer's service to allow incoming calls only, along with calls to some Telstra operator and emergency services. Optus has a 'high unbilled policy', whereby barring is imposed on a consumer's service if a sudden and substantial jump in long distance calls is recorded. A Recorded Voice Announcement prompts the consumer to contact the carrier to confirm that the account holder is aware of the increase in such calls.

In previous years, the TIO received many complaints regarding the collection of security bonds. Neither of the major carriers now require bonds, however Telstra, following its revised credit management policy, does assess the credit risk of consumers applying for a telephone service. For example, new customers of Telstra classified as 'high risk', have their access restricted to local calls only, and are offered PhoneAway cards for STD/IDD calling; access may then be reviewed after six months, at the customer's request.

The TIO has noticed that many of the newer service providers are requiring security deposits or securing credit card details from consumers. In many cases, the service provider informs the consumer that it reserves the right to deduct an outstanding balance from the nominated credit card if the invoice is not paid within a specified period.

Complaints regarding old Telstra bonds are still received by the TIO, with consumers often reporting that they are experiencing difficulties retrieving a security deposit after the specified period has elapsed.

DIRECTORIES

Enquiries: 471

Consultations: 32

Complaints: 21

Disputes: 2

Complaints regarding directories are most likely to involve Telstra's White Pages directory. A condition attached to Telstra's carrier license is the obligation to provide a complimentary standard White Pages listing for every residential and small business consumer. A standard entry includes a customer's name, physical address and telephone number, with small business customers allowed to include their occupation. A charge applies for an additional entry, or for an enhanced or fax entry, which are particularly useful options for small business customers. Complaints are often received from small business customers with regard to their enhanced listing.

In 1996/97, White Pages cases represented 1.51% of the TIO's total number of cases, a marginal decrease from the previous financial year. However, such cases accounted for 5.29% of small business cases against only 0.91% of residential cases. There were three main areas of concern: errors in the directory entry; incorrect or confusing charges for entries; and omission of all or part of the entry.

Although the TIO does not have formal jurisdiction over business directories, an arrangement has been made with Pacific Access, the publisher of Yellow Pages, whereby the TIO refers cases to Pacific Access for resolution. Pacific Access then reports back to the TIO. Predictably enough, Yellow Pages cases were more highly represented in the small business category than in the residential category.

CASE NOTE

A small businessman had contacted Telstra to arrange the connection of a dedicated facsimile line. When asked, he apparently declined to have this number included in the White Pages directory. Despite this request, the entry was included and due to its positioning above his existing telephone listing, potential clients were attempting to telephone the business using the facsimile number. After receiving the TIO's complaint, Telstra agreed to donate a phone/fax machine to the complainant that would receive facsimiles, but would also, if the call was a voice-call, relay a recorded message to the caller advising the correct number.

CREDIT CONTROL

Barring	19.8%
Bonds	11.6%
Old Debts	58.5%
Incontact	1.3%
Policy	8.8%

CASE NOTE

A complainant contacted the TIO to dispute liability for several hundred dollars' worth of international calls. The complainant claimed that long distance barring was supposed to be in place on the service, based on a letter from Telstra advising that access would be limited until a credit history was established. Six weeks later, however, the complainant received an account which included numerous international calls.

When the complainant contacted Telstra to query the account, she was advised that Telstra had lifted the bar at the request of a family member. Telstra claimed that the complainant was then liable for the calls.

The TIO took up the case on the basis that the bar had been imposed on the complainant's service by Telstra for credit reasons and that, by lifting the bar, Telstra had acted contrary to its own credit control policy. Telstra acknowledged that the bar should not have been lifted and agreed to waive all long distance charges on the account and to reinstate the bar.

FAULTS

Enquiries: 1447

Consultations: 25

Complaints: 22

Disputes: 5

Cases relating to faults dropped substantially to 4.3% in the 1996/97 year, down from 9.20% the previous year. Of the 1,499 cases, 346 concerned business customers, with a disproportionate number of cases escalating to complaint and dispute level. This indicates the impact that a faulty or out of order telephone service can have on business profits and the potential loss of customers. 15% of all cases relating to faults involved the complainant seeking compensation, with the remaining 85% simply requesting repair to the service.

The TIO has also handled cases where customers have claimed loss of business due to their home phone being out of order. Consumers are often not aware that Telstra considers the repair of business lines as a priority, and that services listed as residential lines may therefore not be repaired as quickly as some business services. Other complainants have been frustrated with delays of a week or more for repair of faults due to the laying of *FOXTEL* cables, or caused by technicians working on cabling.

A carrier is responsible for repair and maintenance of faults at the exchange, in the Customer Access Network cabling and up to the network termination point. The carrier is also responsible for repairing faults up to and including the first handset, provided it is rented equipment. Complaints about these matters fall within the TIO's jurisdiction. Cabling beyond the network termination point (other than cabling between this point and the first telephone), and repair of other customer premises equipment such as faxes, answering machines, PABX and small business systems, are outside the jurisdiction of the TIO.

CASE NOTE

A complainant contacted the TIO after Telstra charged him \$79.00 to repair a telephone cable which his dog had chewed under the house. The complainant argued that the cable had originally been improperly installed, otherwise the dog would not have been able to chew through it. Telstra reviewed the matter and withdrew the charges.

CASE NOTE

A complainant contacted the TIO regarding a claim for compensation from Telstra for the death of dog which died while she was without a telephone service for six days. In order to obtain the advice of a veterinary surgeon, the complainant was required to drive several kilometres to her nearest neighbour and argued that had she been able to maintain regular contact with the veterinary surgeon through the period of her dog's illness, the dog would probably not have died.

While Telstra admitted that the complainant was without a telephone service due to a Telstra error, Telstra rejected the claim on the grounds that there was no evidence of a causal relationship between the absence of a telephone service and the dog's death. Telstra advised it would be prepared to reconsider the claim if a veterinary surgeon could provide supporting documentation that the lack of telephone caused the death. The complainant was unable to obtain such documentation. In recognition of its error, Telstra provided the complainant with three months of free line rental, reimbursement for calls made to a Telstra technician and costs for travelling to and from her neighbour's house.

LAND ACCESS

Enquiries: 535

Consultations: 11

Complaints: 23

Disputes: 0

Complaints concerning land access issues accounted for 1.63% of all cases dealt with by the TIO for the 1996/97 year. The majority of cases related to the powers vested in carriers under the *Telecommunications Act 1991*.

Complaints related to cables laid across private property, damage to cables, damage to property, and lack of notification by carriers intending to exercise their powers.

As in past years, the TIO received a number of enquiries relating to the unintentional severing of cables. Carriers are not actually required to bury cables at a specific depth on private land, however, Telstra attempts to meet certain internal standards. The TIO also takes the view that, while carriers must take reasonable measures to ensure that cable locations are identified, complainants must also take steps to ensure that telecommunications equipment is not damaged. Customers can call 132 203 to find out the location of underground cables.

On 1 January 1997, the Minister for Communications and the Arts determined a Land Access Code (LAC). The LAC has now been replaced by the Telecommunications Code of Practice, which essentially expands on the requirements placed on a carrier and the rights of people affected by the exercise of a carrier's rights to enter onto or construct facilities on private land. The purpose of the LAC was to maximise competition by facilitating a speedy roll-out of telecommunications facilities, to clarify the rights of owners and occupiers of land, and to establish efficient complaint handling procedures.

Under the LAC, the TIO could deal with objections relating to a carrier's intention to enter onto private land, and the Code specifies the grounds for such objections. This year, the TIO determined a number of objections relating to the proposed location of a telecommunications facility, the lack of reasonable notification, the type of activity specified by the carrier, or assessment of the likely effect on the land. The TIO has no jurisdiction to handle complaints about the commercial decision of a carrier to exercise its rights in relation to one piece of land in preference to another.

An important extension to the TIO's jurisdiction under the new Code of Practice means that owners or occupiers of public land will also have a right of objection in relation to the installation of low-impact facilities.

CASE NOTE

A complainant argued that, although he had severed a cable servicing a large rural community, the carrier had failed to place signs or markers indicating the location of the facilities. An investigation discovered that the nearest sign indicating that a cable was in the vicinity was almost 100 metres away in dense bushland. The TIO determined that the complainant could not reasonably have been expected to see the sign or to have foreseen that the cable was buried on the site, and all charges were withdrawn.

CASE NOTE

A carrier proposed to install a fibre optic cable connection, to two major exchanges, on the complainant's land. The complainant believed a more suitable site was available and that the carrier should have considered co-location with existing cables along the southern side of the adjoining property. Following a site inspection, the TIO requested that the carrier assess the proposed alternatives. The carrier was able to modify its proposal to the satisfaction of the complainant.

MOBILES

Enquiries: 2,772

Consultations: 157

Complaints: 59

Disputes: 2

The TIO logged a total of 2,990 cases relating to mobile services during the 1996/97 year.

Complaints to the TIO regarding both analogue and digital mobiles generally fall into categories of: poor network coverage or performance in a particular area; misleading or confusing information regarding fixed term contracts; lost or stolen phones; and notification periods of contract termination.

89.8% of mobile cases involved digital mobiles, while only 10.2% involved analogue phone services. The largest single category of analogue cases involved issues relating to the phase-out of the Advanced Mobile Phone System (AMPS) in the year 2000.

54.1% of digital mobile cases involved issues relating to contracts; the remainder involved coverage (14.9%), equipment (13.7%) and network problems (7.1%).

Complaints about contracts, now accounting for more than 4% of the total TIO cases, are usually concerned with lack of advice, misleading information and sometimes a lost or forgotten contract. Part 23 of the *Telecommunications Act 1997* provides that, in the absence of an agreement (such as written terms and conditions), the consumer is still bound by the carrier or service provider's standard agreement. This agreement must be available for inspection at each of the provider's premises, and a copy available to anyone on request.

The TIO has raised concerns that certain service providers, resellers and carriers fail to recognise that some dubious retail practices are occurring in dealerships that sell phones. Some dealers are doing everything to make sales, often to the detriment of consumers' rights. The TIO does not accept that a carrier or service provider is entitled to say: 'we are not responsible for the actions of the dealer'.

The TIO holds the view that where a consumer has specifically requested mobile phone coverage in a certain area, and later discovers that the requested coverage does not exist, this constitutes grounds for terminating the contract without incurring penalties.

MOBILE CASES 01/07/96–30/06/97

AMPS	Coverage		1.0%
	Equipment		2.1%
	Inducement		2.5%
	Network		1.2%
	Phase-out		3.4%
			10.2%
GSM	Contracts	Lack of Advice	9.9%
	Contracts	Misleading	8.5%
	Contracts		35.7%
	Coverage		14.9%
	Equipment		13.7%
	Network		7.1%
			89.8%

CASE NOTE

The TIO received a complaint from a consumer regarding digital mobile coverage in a certain area. As there was no coverage in this area, the service provider agreed that the contract could be cancelled without incurring any charges. Subsequently, the consumer received a substantial bill from the service provider and, on enquiring further, was told that the arrangement to cancel the contract could not be met after all. After hearing from the TIO, the service provider upheld the agreement and the contract was terminated.

PRIVACY

Enquiries: 1,144

Consultations: 14

Complaints: 17

Disputes: 1

In 1996/97, privacy cases accounted for 3.38% of total cases. While the cases cover a diverse range of issues, they are classified into four categories:

<i>Nuisance calls</i>	<i>37.06%</i>
<i>Silent lines</i>	<i>20.5%</i>
<i>Telemarketing</i>	<i>10.84%</i>
<i>General</i>	<i>31.6%</i>

When responding to nuisance call complaints, the TIO first ensures that Telstra has adhered to its procedure for assisting recipients of nuisance calls. This procedure involves attaching Malicious Call Trace (MCT) equipment to the recipient's telephone service to identify the service from which the offending calls are originating. The lessee of the originating service is sent warning letters and, if the calls continue, the matter is referred to the Australian Federal Police for investigation. Under Section 85ZE of the *Commonwealth Crimes Act 1914*, it is an offence to knowingly use a telephone to harass another person. At this point, the case would cease to fall within the jurisdiction of the TIO.

By customer request, an unlisted or silent line is one that is excluded from the White Pages directory (printed or electronic) nor is it available through Directory Assistance. Telstra charges the customer a monthly fee of \$2.66 for this service. Cases in this category usually involve an allegation that details of a customer's silent line have been incorrectly or improperly released, and can be difficult to investigate because it is usually impossible to identify with certainty the employee who might have been responsible.

CASE NOTE

The TIO received a complaint from a woman who claimed that, despite her request for Telstra to make her new telephone number silent, her details, including her address, had been listed in the White Pages. The matter was potentially serious given a history of problems the complainant had been experiencing with her estranged husband.

Telstra did not accept liability for its customer's predicament, arguing that there was no record of her requesting a silent line. However, in view of the complainant's history of requesting and having silent telephone numbers, and after negotiation with the TIO, Telstra offered to meet the cost of having bars installed on the windows of the complainant's home. The complainant was very pleased with the outcome of her case.

PROVISION OF SERVICE

Enquiries: 1,872

Consultations: 70

Complaints: 29

Disputes: 1

While the TIO commonly receives complaints about telemarketing, these matters are not usually within the TIO's jurisdiction. Although often intrusive in nature, telemarketing calls, whether by telephone or facsimile, are a legal practice. Complainants are, however, referred by the TIO to the Australian Direct Marketing Association, who will add the complainant's name to a 'Preference List' of those people who do not wish to receive telemarketing calls. The Preference List is maintained and observed by the association's members, but consumers may still be contacted by non-members of the association.

Complaints have also come from people who receive telemarketing calls, despite having unlisted numbers. While having a silent number removes contact details from the White Pages directory and 013 and 0175 directory assistance, it does not preclude consumers from receiving unsolicited calls. Silent numbers can be accessed by telemarketers through the use of Automatic Calling Equipment and random dialling techniques are not able to distinguish a silent number from a listed number.

Other complaints reflect a wide range of community concerns regarding privacy related issues, such as the transfer of personal information from one carrier or service provider to another. Several such complaints have been received from customers of Telstra who, after dialling a number with the prefix '1900', have received an account from Optus. The disclosure of personal details to another company, for reasons other than those relating to telecommunications service provision, may be a direct offence under the Telecommunications Act. It is, however, the obligation of the selected carrier or service provider to provide information to another carrier or service provider for the purpose of billing.

This category covers cases relating to delays in the provision of new connections, services or additional lines. Although the majority of cases involved Telstra, there was an increase in cases logged against other service providers. A total of 1,972 cases were raised during 1996/97 by the TIO, representing a total of 5.6% of all cases, compared with the 1995/96 figure of 10.4% of cases.

Delays in providing a new service accounted for 52.2% of service provision cases; about 20% related to an in-place service. Delays seem to occur as a result of misplaced orders, non-availability of cable, and appointments not kept. The TIO expects that performance standards that are to be introduced by the Australian Communications Authority under the Customer Service Guarantee will result in a decrease in the number of complaints of this type.

In 1996/97, service provision complaints for residential services amounted to 4.4% compared with 13.5% of cases for business services, reflecting the importance of timely connections for small business. Small businesses are more like to complain about delays in provision of service because of their heavy reliance on the telephone.

A number of small business cases concerned delays in providing additional lines and value added services, such as Call Waiting and Call Diversion. As in the past, small businesses have raised cases where a delay in having services connected has caused a loss of income. In these instances, the TIO requires the complainant to substantiate any claimed losses and to provide evidence that the claimed losses were directly related to the actions or inaction of the carrier or service provider.

PROVISION OF SERVICE CASES

<i>In-Place Services</i>	<i>Delay</i>	<i>19.7%</i>
	<i>Standard</i>	<i>18.0%</i>
<i>New Services</i>	<i>Delay</i>	<i>52.2%</i>
	<i>Standard</i>	<i>10.1%</i>

STAFF

Enquiries: 404

Consultations: 3

Complaints: 1

Disputes: 0

CASE NOTE

A complainant had requested a new service and was promised connection on four separate occasions. Despite the complainant raising the issue with the carrier, the technicians failed to keep the appointment every time. Following a formal complaint by the TIO, the service was immediately connected by an apologetic carrier and a year's Service Guarantee was credited to the complainant's account.

CASE NOTE

A small business requested a new business service connection in November 1996, and was promised connection by December 1996. The complainant was allocated a new number and proceeded to produce promotional material advertising the new service number. On the date of the connection the complainant was advised by the carrier, via a telephone call to his mobile phone, that the carrier didn't have enough cable to connect the line and that the service would not be connected until February 1997. The TIO was able to apply pressure to the carrier to take urgent steps to have the service connected, and for associated charges to be borne by the carrier.

Complaints in this category relate to allegations of rude or unhelpful carrier or service provider staff, and reports of long or excessive waits experienced by customers in queues to call centres, carriers or service providers. Complaints of false or misleading information also fall within this category.

CASE NOTE

In a recent case investigated by the TIO, a complainant claimed that a Telstra staff member had been extremely rude and had 'hung up on' the complainant. He therefore wanted disciplinary action to be taken against the staff member in question. The complainant was advised that while the TIO cannot compel Telstra to take disciplinary action against its staff, the matter could be investigated to establish whether or not the staff member had acted improperly. Any disciplinary action would be taken by Telstra at its own discretion.

The staff member in question had a different opinion as to what had happened and provided an explanation for the series of actions taken and questions asked. Furthermore, the staff member denied terminating the call prematurely.

As the TIO was not a party to the conversation, it was not in a position to make a judgement regarding the events that had taken place. Clearly the perceptions of the incident differed markedly between the complainant and the staff member and, accordingly, Telstra was not prepared to take disciplinary action against the staff member on this occasion.

FINANCIAL STATEMENTS

DEMAND DRIVEN FUNDING

As an industry-based Ombudsman's Scheme, the funding of the TIO is the responsibility of the telecommunications companies which are its members. This effectively moves the costs of complaint handling onto industry and away from the taxpayer, in contrast to Statutory Ombudsman Schemes. The TIO is a non-profit organisation.

Using the principle of demand driven funding, each member company is responsible for paying for the direct costs of cases raised against it, and a proportion of the overhead and capital expenses based on its percentage of total complaints.

The requirement to pay the costs of the Scheme provides the incentive for each member to develop effective internal complaint handling procedures, and to resolve disputes before the complainant approaches the TIO for assistance.

The funding requirements of the Scheme are four-fold: volume related case costs, recurrent overhead costs, on-going capital expenditure and special levies. Members of the TIO are invoiced quarterly in arrears for the first quarter of membership, and quarterly in advance for subsequent billing periods. The projections for the advanced billing are based on the previous quarter's case history and at the end of each quarter a reconciliation is undertaken with credits or debits brought to account. The quarterly invoice includes volume-related and overhead operating costs and any capital expenditure costs and special levies. The TIO Board must approve all capital expenditure costs and special levies.

Cases are charged on a unit cost basis. The cost to the member is determined by the total number of cases relating to the member and the stage at which the cases are resolved. Case charges are cumulative, so if a case is escalated through two or more levels it will attract the full charge for each category. This also provides members with an incentive to resolve the problem at an earlier stage.

The four case levels are as follows:

Enquiries

These take an estimated 24 hours, are typically dealt with over the telephone, and are charged at \$15.

Consultations

These are charged at \$140 and the member has 14 days to provide the relevant information or response to the TIO.

Complaints

These are more serious than a Consultation, have a time frame of 28 days and are charged at \$292. In exceptional circumstances, we may grant an extension to the member to provide the relevant information, but the Ombudsman must approve the extension.

Disputes

If a response has not been received within the 28 day time frame, consideration will be given to upgrading the case to a dispute. The cost of a dispute is \$1,130 and these cases are managed by the Deputy Ombudsman, and usually resolved by way of mediation or a written determination by the Ombudsman.

The volume related income covers the costs of the Investigations area and 50% of overhead costs. Experience has shown that this area runs on a break-even basis and additional staff are only employed when demand increases.

Overhead costs relate to the day to day operation of the TIO Scheme and include expenses relating to general computer systems, marketing and promotional costs, administrative staff salaries, 50% of the accommodation, electricity and other general operating costs. Member payment of these costs is directly linked to the volume and cost of cases for each quarter. For example, if a Scheme member incurs 5% of the total cost of cases for the quarter, then they pay 5% of the operating and capital expenditure costs for that quarter.

BALANCE SHEET AS AT 30 JUNE 1997

	1997	1996
	\$	\$
CURRENT ASSETS		
Cash	535,435	304,671
Receivables	177,822	49,028
Other	3,631	2,734
Total Current Assets	716,888	356,433
<hr/>		
NON-CURRENT ASSETS		
Plant and Equipment	102,764	110,372
Total Non-Current Assets	102,764	110,372
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TOTAL ASSETS	819,652	466,805
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CURRENT LIABILITIES		
Creditors and borrowings	217,464	160,320
Provisions	36,783	28,776
Other	261,891	49,147
Total Current Liabilities	516,138	238,243
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TOTAL LIABILITIES	516,138	238,243
<hr/>		
NET ASSETS	303,514	228,562
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MEMBERS' FUNDS		
Retained Profits	303,514	228,562
TOTAL MEMBERS' FUND	303,514	228,562
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STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 1997

	1997	1996
	\$	\$
	Inflows (Outflows)	Inflows (Outflows)
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from members	2,019,091	1,898,501
Payments to suppliers and employees	(1,751,380)	(1,842,587)
Receipts from sundry sources	1,180	68,296
Interest received	18,187	16,853
Net cash inflow from operating activities	287,078	141,063
<hr/>		
CASH FLOW FROM INVESTING ACTIVITIES		
Payment for plant and equipment	(56,314)	(39,496)
Net cash (outflow) from investing activities	(56,314)	(39,496)
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NET INCREASE IN CASH HELD	230,764	101,567
Cash at beginning of the financial year	304,671	203,104
CASH AT THE END OF THE FINANCIAL YEAR	535,435	304,671
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*FINANCIAL STATEMENTS
UNAUDITED DETAILED PROFIT AND LOSS ACCOUNT
FOR THE YEAR ENDED 30 JUNE 1997*

	1997	1996
	\$	\$
Funds received/receivable from participants	2,159,388	1,928,262
Other income	18,187	16,853
Total Income	2,177,575	1,945,115
<hr/>		
Operating Expenditure		
Audit/Accountancy	14,959	17,271
Bank Charges	7,412	7,144
Bad Debts	22,723	-
Books and Publications	8,081	7,956
Computer Expenses	63,942	57,822
Conferences/Seminars	6,862	6,693
Consultants	44,543	54,039
Depreciation	63,922	109,614
Entertainment	11,337	7,966
Fringe Benefits Tax	1,832	3,096
Legal	49,956	29,770
Maintenance	3,187	2,180
Insurance	9,334	8,653
Marketing/Public Relations	158,873	210,054
Other Expenses	26,169	22,333
Payroll Tax	27,730	17,777
Postage	12,585	9,843
Premises: Rent/Outgoings	197,673	184,256
Printing and Information Expenses	18,032	24,853
Provision for Doubtful Debts	25,000	14,677
Recruitment Fees	21,419	11,620
Relocation Expenses	163	16,352
Salaries	987,952	893,731
Staff Training	27,176	20,742
Stationery	16,495	13,805
Superannuation	65,070	64,984
Telephone fax	119,253	80,680
Travel and Accommodation	84,650	60,235
Workcover	6,293	9,373
Total Expenditure	2,102,623	1,967,519
SURPLUS/(DEFICIT)	74,952	(22,404)

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.

APPENDICES

CASE-MIX BREAKDOWN FOR ALL MEMBERS

MEMBER	NO. OF CASES 1996/97	ENQUIRY	CONSULTATION	COMPLAINT	DISPUTE
AAP TELECOMMUNICATIONS	825	687	86	49	3
ACW SERVICES (RESIGNED)	830	769	36	25	0
AUSTRALIAN COMMUNICATIONS EXCHANGE	5	3	2	0	0
CALL AUSTRALIA	184	149	24	10	1
CORPTEL	320	274	33	13	0
DIGICALL FIXED (IN LIQUIDATION)	83	61	11	9	2
FIRST NETCOM	305	266	27	12	0
HUTCHISON TELECOMMUNICATIONS	265	237	25	3	0
MOBILE INNOVATIONS	44	41	3	0	0
ONE TEL	975	879	60	36	0
OPTUS COMMUNICATIONS	4345	4160	163	22	0
PACIFIC ACCESS (NOT FORMAL MEMBER)	88	81	7	0	0
SPECTRUM GLOBAL	142	124	11	7	0
SWITCH TELECOMMUNICATIONS	114	99	12	3	0
TELSTRA CORPORATION	25355	24259	582	496	18
UNITED (MARTIN DAWES) TELECOMMUNICATIONS	256	227	24	5	0
VODAC	395	327	43	24	1
VODACALL	677	610	51	13	3
VODAFONE	361	350	6	5	0
WORLDXCHANGE	23	23	0	0	0

TIO COUNCIL ATTENDANCE 1/7/96 TO 30/6/97

	REPRESENTING	19/07/96	15/08/96	10/10/96	6/12/96	6/02/97	12/03/97	13/03/97	1/05/97	16/06/97
CHAIRMAN										
Hon L. Bowen AC <i>(term expired August 1996)</i>	Chairman	•	•							
Hon Tony Staley <i>(appointed August 1996)</i>	Chairman		•	•	•	•	•	•	•	•
CARRIERS/SERVICE PROVIDERS										
Ted Benjamin	Telstra	•	•	•	•	•	•	•	•	•
John Rohan <i>(resigned 29/10/96)</i>	Vodafone	•								
Graeme Holm <i>(appointed 29/10/96)</i>	Vodafone				•	•	•	•		•
Andrew Bedogni	Optus	•	•	•		•	•	•	•	•
Brian Perkins (AAPT) <i>(appointed 31/10/96)</i>	Service Providers				•	•	•	•	•	•
Graeme Holm <i>(alternate for John Rohan)</i>	Vodafone		•	•						
David Clarke <i>(alternate for Graeme Holm)</i>	Vodafone								•	
Anneleise Reinhold <i>(alternate for Andrew Bedogni)</i>	Optus				•					
PUBLIC AND USER GROUPS										
Elizabeth Morley	ACA	•	•	•	•	•	•	•	•	•
Ewan Brown	SETEL	•	•	•	•	•	•	•	•	•
Pam Marsh	CIRS	•	•	•	•	•	•	•	•	•
Julie Austin <i>(appointed 1/06/97)</i>	NFF									•

ACA: Australian Consumers Association

CIRS: Community Information and Referral Service of ACT

SETEL: The Small Enterprise Telecommunications Centre Ltd

NFF: National Farmers' Federation

TIO BOARD ATTENDANCE 1/07/96 TO 30/06/97

	REPRESENTING	27/08/96	12/11/96	21/01/97	12/03/97	21/04/97	3/06/97
Deirdre Mason	Telstra	•	•	•	•	•	•
Ross Ramsay	Optus		•	•	•	•	•
Graeme Ward	Telstra	•	•	•	•		
Colin Marland (<i>corpTEL</i>) (<i>appointed 31/10/96</i>)	Service Providers		•	•	•	•	•
John Rohan (<i>appointed 29/10/96</i>)	Vodafone		•	•	•	•	•
Rob Simpson (<i>resigned 16/06/97</i>)	Optus	•	•	•		•	•
Adrian Coote (<i>resigned 15/10/96</i>)	Vodafone	•					

CONSTITUTION

Telecommunications Industry Ombudsman

A: INTRODUCTION

1 THE TIO SCHEME

- 1.1 The Telecommunications Act 1997 ("the Act") contains the following requirements:
- Each carrier and each eligible carriage service provider must, in association with other carriers and other eligible carriage service providers, enter into a Scheme providing for a Telecommunications Industry Ombudsman.
 - The Scheme is to be known as the Telecommunications Industry Ombudsman Scheme.
 - The Scheme must provide for the Telecommunications Industry Ombudsman to:
 - investigate; and
 - make determinations relating to; and
 - give directions relating to;
- complaints about carriage services by end-users of those services.
- 1.2 The Act also provides:
- for the TIO (with his or her consent) to issue an evidentiary certificate stating that a carriage service provider has contravened a "Customer Service Guarantee" performance standard and setting out particulars of the contravention; and
 - that the TIO (with his or her consent) may have functions and powers conferred on him or her by industry codes and industry standards.
- 1.3 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 and 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; and
 - exercise such other powers and functions as may be conferred by statute.

An Acting Telecommunications Industry Ombudsman ("Acting TIO") and a Deputy Telecommunications Industry Ombudsman ("Deputy TIO") are also provided for.

2 MEMBERS

- All carriers and eligible carriage service providers, are required to be members of the TIO Scheme.
- Membership of the TIO Scheme is open to all carriers and carriage service providers (subject to the Articles of Association of the Telecommunications Industry Ombudsman Limited).
- A carrier or carriage service provider becomes a member of the TIO Scheme by becoming a member of the Telecommunications Industry Ombudsman Limited.
- The TIO shall (as required by the Act) maintain a Register of the names of the members of the TIO Scheme and ensure that the Register is open for inspection, at all reasonable times, by members of the public. In allowing a person to inspect the Register, the TIO shall first provide to the person a statement of the limitations imposed by the Corporations Law on the use to which the information contained in the Register may be put.

B: TELECOMMUNICATIONS INDUSTRY OMBUDSMAN

3 FUNCTIONS OF THE TIO

- 3.1 The functions of the TIO are:
- to investigate, make determinations relating to, and give directions relating to, complaints about carriage services by end-users of those services;
 - to exercise any functions conferred on the TIO by an industry code or industry standard in accordance with the Act; and
 - to exercise any other functions conferred on the TIO under any legislation, including for example the power to issue a written certificate stating that a specified carriage service provider has contravened a "Customer Service Guarantee" standard set by the Australian Communications Authority and setting out particulars of the contravention, or the power to approve guidelines for the interception of telecommunications by a carrier;
 - to investigate, make determinations relating to, and give directions relating to, complaints by 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; or
 - arising from the use of the land by a carrier, under a contract between that carrier and the owner or occupier of that land.
- By way of example, the TIO's functions include to receive, to investigate and to facilitate the resolution of:
- complaints about billing, or the manner of charging, for the supply of carriage services;
 - complaints as to the provision or supply of (or the failure to provide or supply) carriage services by a member, other than complaints in relation to the general telecommunications policy or commercial practices of a member;

- (c) such other complaints as may, by agreement with the complainant, be referred to the TIO by a member.
- 3.2
- (a) Complaints may be made to the TIO by end-users of carriage services and by persons directly affected by the provision or supply of (or the failure to provide or supply) such services by Scheme members.
 - (b) Complaints may not be made by an intermediate user of a carriage service except where the complaint relates to a carriage 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, 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.

4 JURISDICTION OF THE TIO

4.1 For further guidance, the functions of the TIO include, but are not limited to, investigating and facilitating the resolution of complaints as to the following:

- the standard telephone service;
- the provision of access to the Internet or another public electronic communications network (including complaints relating to billing for such a service);
- public mobile 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 or terms and conditions which are, under Part 23 of the Act, applicable;
- failure to supply a good or service in accordance with a tariff or terms and conditions which are, under Part 23 of the Act, applicable; 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.

4.2 Also for guidance, the functions of the TIO in relation to complaints from owners or occupiers of land include, but are not limited to, investigating and facilitating the resolution of complaints as to 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, in accordance with any applicable statutory or contractual requirement; and
- inadequate compensation where compensation is required by any applicable statute or contract to be paid.

4.3 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 auxiliary goods supplied under a tariff or in accordance with terms and conditions applicable under Part 23 of the Act;
- (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 carriage services, cabling to other extensions of that service within the residential premises;
- (c) business directories, including but not limited to "Yellow Pages";
- (d) commercial activities which do not include the provision of carriage 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;
- (j) matters which are specifically under consideration by the Australian

Communications Authority, the Australian Competition and Consumer Commission or any court or tribunal, or which have been considered by any of those bodies previously;

- (k) the content of a content service (as defined in the Act); and
- (l) an alleged breach of an industry code or industry standard by a member of the Telecommunications Industry Ombudsman Limited, where the complaint is made by a member of the Telecommunications Industry Ombudsman Limited or another industry participant.

5 PROCEDURES OF THE TIO

5.1 The TIO, in handling complaints, must pursue the objective of "fair, just, economical, informal and expeditious" resolution. In consultation with the Council, the TIO is responsible for developing procedures which best achieve this objective. However, these procedures must include the following:

- (a) The TIO on receiving a complaint, will verify with an officer designated by the member concerned whether the member has had the opportunity to consider the complaint;
- (b) The TIO may proceed to investigate the complaint only after the member has had this opportunity, subject to reasonable time limits to avoid undue delay in dealing with the complaint, and after the member has been notified that the TIO intends to investigate the complaint;
- (c) Within the time reasonably specified by the TIO (which shall be no more than twenty-eight (28) days after receiving notification of an investigation by the TIO), the member concerned shall provide to the TIO all documentation relevant to the complaint other than documentation containing confidential information of a third party, who despite the reasonable efforts of the member, has refused to consent to disclosure of the information to the TIO;
- (d) With respect to all information concerning or relating to a complaint, the TIO must act in accordance with the Information Privacy Principles specified in the Privacy Act 1988 (Cth); and
- (e) In complying with any subpoena, the TIO must notify the person who has provided the information which is the subject of the subpoena so that the person concerned is afforded the opportunity to appear in court to oppose production of the documents or the giving of evidence, as appropriate.

6 POWERS OF THE TIO

6.1 Binding Decisions

After completion of an investigation and in the absence of a conciliated settlement of a complaint, the TIO shall resolve a complaint:

- (a) (i) by making a determination that the member the subject of investigation pay compensation to a complainant,
- (ii) by directing a member to provide a carriage service,
- (iii) by directing a member not impose or amend a charge in relation to a service,
- (iv) by directing a member to provide specified operator services,
- (v) by directing a member to include or omit an entry in any electronic or printed directory,
- (vi) by directing a member to supply goods or services the subject of the complaint or undertake any necessary corrective or other work to resolve the complaint,
- (vii) by directing a member to make an appropriate correction, deletion or addition to a record,
- (viii) by directing a member to attach to a record a statement provided by the complainant of a correction, deletion or addition sought by the complainant, and/or
- (ix) by directing a member to do, not to do, or to cease doing, an act,

provided that the total of such determinations or directions in relation to an individual complaint are not to exceed in value \$10,000; or

- (b) by dismissing the complaint.

All decisions by the TIO under paragraph 6.1 shall be automatically binding upon members. However, the complainant may elect whether or not to accept the decision of the TIO within twenty one (21) days of the TIO's decision. If the complainant accepts the decision of the TIO, the complainant shall fully release the member from all claims, actions etc in relation to the complaint. In the event that the complainant does not accept the decision of the TIO, the complainant may pursue his or her remedies in any other forum the complainant may choose and the member is then fully released from the TIO's decision.

6.2 Recommendations

After completion of an investigation and the unsuccessful conciliation of a complaint, the TIO may also make recommendations to a member in relation to any or all of those matters identified in paragraph 6.1 up to the total value of \$50,000 and a member shall be obliged to consider whether or not to give effect to any such recommendation provided that a decision not to give effect to any such recommendation shall not be the subject of further complaint to the TIO from a complainant.

6.3 Reasons

The TIO shall provide only such written reasons as give effect to any decision or recommendation under paragraph 6.1 or recommendation under paragraph 6.2.

6.4 Findings of Fact

Where a complaint involves a total amount in excess of \$50,000, the TIO may make findings of fact but shall make no determinations, directions or recommendations about compensation or other remedial actions.

6.5 Arbitration

Where a complaint involves a total amount in excess of \$50,000, if the complainant and the member agree, the TIO may, if he or she so agrees, exercise arbitration powers in respect of the complaint.

6.6 Evidentiary Certificates - Customer Service Guarantee

At any time during or following the investigation of a complaint, and notwithstanding anything else contained in this Constitution, the TIO may in his or her discretion (and if empowered to do so under the Act) issue a written certificate stating that a specified carriage service provider (as the term "carriage service provider" is defined in the Act) has contravened a "Customer Service Guarantee" standard set by the Australian Communications Authority and setting out particulars of the contravention.

6.7 Discretion not to Investigate

The TIO has the discretionary power to decline to investigate a complaint if in the opinion of the TIO:

- (a) the complaint is frivolous or vexatious or was not made in good faith;
- (b) the complainant does not have a sufficient interest in the subject matter of the complaint; or
- (c) an investigation, or further investigation, is not warranted.

The TIO may also decline to investigate a complaint where, under paragraph 6.8(b) inter alia, the complaint is more conveniently or effectively dealt with by the Australian Communications Authority, the Australian Competition and Consumer Commission, the courts or any other body.

6.8 Referral of Complaints

(a) At any time before a binding decision is made by the TIO, a member may notify the TIO:

- (i) that the member considers that a complaint has given rise to:
 - an issue of importance to the member's business, or
 - an issue involving an important or novel point of policy or law; and
- (ii) that within ninety (90) days the participant or the complainant:
 - will be seeking advice from the Australian Communications Authority, the Australian Competition and Consumer Commission, or another person or body, or

will be instituting legal proceedings; and

(iii) that, in the case of legal proceedings instituted by a member, the member will:

- pay the complainant's costs and disbursements (to be taxed, if not agreed, on a solicitor and own client basis) of the proceedings at first instance and any subsequent appeal proceedings commenced by the member (except by way of respondent's notice, cross appeal or other similar procedure), and
- make interim payments on account of such costs if and to the extent that it appears reasonable to the member to do so; and

(iv) that the member will not take the action on which the complaint is founded pending resolution of the wider issue.

On receipt of such notice, the TIO shall not proceed with the complaint unless:

- (i) the TIO forms the opinion that any delay would jeopardise a fair resolution of the complaint or would cause unreasonable hardship to the complainant; or
- (ii) the member, or the complainant, fails to seek advice from the Australian

Communications Authority, the Australian Competition and Consumer Commission or another person or body or to institute legal proceedings within the time specified in the notice.

- (b) Where, at any time after receipt of a complaint, the TIO:
 - (i) forms the opinion that the complaint could have been made by the complainant to the Australian Communications Authority, the Australian Competition and Consumer Commission or another body; and
 - (ii) forms the opinion that the complaint could be more conveniently or effectively dealt with by the Australian Communications Authority, the Australian Competition and Consumer Commission or such other body; and
 - (iii) obtains the consent of the complainant to refer the complaint to the Australian Communications Authority, the Australian Competition and Consumer Commission or such other body;

the TIO may decide not to investigate the complaint, or not to investigate the complaint further, as the case may be.

If the TIO so decides, the TIO must:

- (i) refer the complaint to the Australian Communications Authority, the Australian Competition and Consumer Commission or such other body as appropriate;
- (ii) give written notice to the complainant and the member stating that the complaint has been so referred; and
- (iii) give to the Australian Communications Authority, the Australian Competition and Consumer Commission or such other body all information or documents that relate to the complaint and that are in the TIO's possession or under the TIO's control.

7 OTHER POWERS AND RESPONSIBILITIES OF THE TIO

7.1 The TIO is responsible for:

- (a) the overall performance of the TIO Scheme including, but not limited to, meeting such objectives as are determined by the Council from time to time;
- (b) managing the day to day operations of the TIO Scheme, including but not limited to, the appointment and termination of employment of staff;
- (c) attending, in a non-voting capacity, meetings of the Council at the invitation of the Council;
- (d) liaising with other industry bodies, the Australian Communications Authority, the Australian Competition and Consumer Commission and other relevant government authorities and, in consultation with the Council, developing working procedures with these bodies where appropriate;
- (e) in consultation with the Council, developing procedures for the fair, just, economical, informal and expeditious handling of complaints;
- (f) in consultation with the Council, promoting the TIO Scheme and its complaint-handling procedures;
- (g) making recommendations to the Council on the TIO Constitution;
- (h) in consultation with the Council, preparing financial budgets and business plans and any subsequent amendments thereto;
- (i) submitting proposed financial budgets and business plans and any subsequent amendments thereto to the Council for referral to the Board with recommendations and/or comments as the Council thinks fit;
- (j) controlling and monitoring expenditure within the agreed budget and for providing regular reports to the Council and the Board on expenditure;
- (k) preparing the annual report of the TIO;
- (l) at the TIO's discretion, making ad hoc confidential reports to members and the Council;
- (m) at the TIO's discretion, making general observations about the operation of the TIO Scheme in any public forum;
- (n) acting as an interface with the public for the receipt and referral of complaints;
- (o) keeping adequate data on complaints or requests for information, both for reporting purposes and to identify the sources of practices giving rise to similar complaints;
- (p) ensuring that an accurate up-to-date list of all members of the Telecommunications Industry Ombudsman Limited is readily available to the public at all reasonable times (and that when that list is inspected by a member of the public, that person is first informed of the limitations imposed by the Corporations Law on the use to which the information contained in the list may be put); and

- (q) the nomination to the Council of the Deputy TIO.
- 7.2 The TIO also has the power:
- (a) to delegate such of the TIO's functions as may be convenient for the efficient day-to-day operation of the TIO Scheme, other than the power:
 - (i) to make binding decisions under paragraph 6.1,
 - (ii) to make recommendations under paragraph 6.2,
 - (iii) to provide written reasons under paragraph 6.3,
 - (iv) to make findings of fact under paragraph 6.4, and
 - (v) to exercise arbitration powers under paragraph 6.5,

which powers may only be delegated to a person occupying the position of Deputy TIO, and other than any power which is referred to in paragraph 3.1(3) and which is specified by the relevant industry code or industry standard, or under the relevant legislation, as not being delegable; and

- (b) to make a report to a member where, in the TIO's opinion, the general telecommunications policy or commercial practices of a member:
 - (i) have contributed to a complaint;
 - (ii) have been identified as the source of a number of similar complaints;
 - (iii) have impeded the investigation or handling of a particular complaint; or
 - (iv) operate in such a manner that the TIO considers that the policy or practice should be referred to the Australian Communications Authority.
- 7.3 In exercising the powers of determination or recommendation under paragraph 6.1 and 6.2 respectively, the TIO shall not make a determination or recommendation which, when given effect, would involve a member contravening any law of the Commonwealth or of a State or Territory.

8 BUDGETS

It is the function of the Board to:

- (a) set global limits for funding; and
- (b) approve budgets and any additional expenditure not provided for in the current budget.

In deciding whether or not to approve any proposed budget, the Board shall be entitled to consider:

- (i) the ongoing financial stability or viability of TIO Limited; but
- (ii) otherwise shall only be concerned to ensure that the particular budget comes, or is likely to come, within the global limits it has set.

The Board shall not otherwise take into consideration the business decisions of the TIO or Council (as the case may be) in determining how those funds should be allocated within any particular budget. Nothing shall preclude the Board from seeking or receiving information about the budget and expenditures, both past and projected, to assist the Board in setting funding limits appropriate to the operation of the TIO Scheme.

Because the TIO has responsibility for managing the day-to-day operations of the TIO Scheme, the TIO is responsible for the preparation of financial budgets and business plans and any subsequent amendments, in consultation with the Council. The TIO must submit proposed budgets, plans and/or amendments to the Council. The TIO is responsible for controlling and monitoring expenditure within the agreed budget and for providing regular reports to the Council and the Board on expenditure.

The Council must consider the proposed budget plans and/or amendments submitted by the TIO. The Council must then refer these to the Board with such comments and/or recommendations as the Council thinks fit.

C: THE COUNCIL

9 ROLE AND RESPONSIBILITIES OF THE COUNCIL

- 9.1 The primary responsibilities of the Council are the oversight of the TIO Scheme and maintenance of the independence of the Ombudsman. The Council is to act as an intermediary between the TIO and the Board. The Council's role is complementary to

that of the TIO. While the TIO will have responsibility for the day to day operation of the Scheme, it is the function of the Council to provide advice to the TIO on policy and procedural matters.

Council members are selected for their knowledge of consumer interests and customer service issues within the context of the telecommunications industry. These resources will assist the Council in fulfilling its role of providing policy and procedural advice to the TIO.

9.2 Specifically, the duties of the Council are:

- (a) To recommend to the Board a person to be appointed as the TIO. Similarly the Council may recommend to the Board the termination of the appointment of the TIO.
- (b) To make recommendations, if it thinks fit, to the Board concerning the appointment and termination of an Acting TIO and a Deputy TIO.
- (c) Within the framework of the TIO Constitution, to determine policies and practices relating to the administration of the TIO Scheme.
- (d) To monitor the TIO Constitution and, from time to time, recommend to the Board amendments to the TIO Constitution as the Council thinks fit.
- (e) To receive and consider recommendations from the TIO for amendments to the TIO Constitution.
- (f) To provide advice to the TIO on the allocation of resources within the framework of global resources approved by the Board.
- (g) To receive and consider financial budgets and business plans (and any subsequent amendments thereto) prepared by the TIO.
- (h) To refer the financial budgets, plans or amendments to the Board and to comment and/or make recommendations to the Board as the Council thinks fit.
- (i) Within twelve (12) months of commencement of operation of the TIO Scheme, and within every twelve (12) months thereafter, to review the financial limits on the determinative and recommendatory powers of the TIO as referred to in paragraphs 6.1 and 6.2.
- (j) To make recommendations to the Board as to the appropriateness, scope and timing of a review of the TIO Scheme.
- (k) To provide advice to the TIO on the promotion of the TIO Scheme and the preparation of the Annual Report.

10 RELATIONSHIP BETWEEN THE COUNCIL AND THE TIO

The Council acts as intermediary between the TIO and the Board and in this way ensures the independence of the TIO. The Council has prime responsibility for policy matter and oversight of the TIO Scheme's operation. The TIO has responsibility for the day to day operation of the TIO Scheme and the resolution of individual complaints. These roles are complementary and, as a general rule, the TIO would attend Council meetings as an observer.

11 RELATIONSHIP BETWEEN THE COUNCIL AND THE BOARD

11.1 The Board is responsible for the formal administration of the Company, the Telecommunications Ombudsman Limited, and exercises final authority in relation to the financial affairs of the Company. These matters are most appropriately exercised by Directors. Responsibility for complaint handling, policy matters and the day to day administration of the TIO Scheme rests with the Council and the TIO, and not the Board.

11.2 From time to time, the efficacy of the TIO Constitution will need to be reviewed. It is the role of the Council, in consultation with the TIO, to prepare recommendations for amendments of the TIO Constitution. Final authority for approval of amendments to the TIO Constitution rests with the Board after consultation with the Federal ministers responsible for communications and consumer affairs policy.

11.3 It is the responsibility of the Board to guarantee sufficient funding for the operation of the TIO Scheme. Appropriate funding will be established in accordance with the principles set out in clause 8 (Budgets). It is the joint responsibility of the Council and the TIO to ensure the TIO Scheme is operated efficiently within the global limits for funding set by the Board.

BANKERS

Commonwealth Bank of Australia

SOLICITORS

Corrs Chambers Westgarth

AUDITORS

MANN JUDD

INFORMATION TECHNOLOGY

BHA Computers Pty Ltd

SPECIAL LEGAL COUNSEL FOR CASUALITIES OF TELSTRA

Minter Ellison

Mr Peter Bartlett

Ms Lucy McCullagh

SPECIAL ARBITRATOR

Deacons Graham & James

Mr Jonathon Mott

Hunt & Hunt

Dr Gordon Hughes

SPECIAL RESOURCE UNIT

Ferrier Hodgson Corporate Advisory (Vic.) Pty Ltd

Lane Telecommunications Pty Ltd

DMR Group Inc. (Montreal, Canada) subcontracting to

TBH Management Consultants

Mr Paul Howell



Telecommunications
Industry
Ombudsman