

21 August 2006

Telecommunications Industry Ombudsman Review
The Allen Consulting Group
Level 4, 128 Exhibition Street
Melbourne VIC 3000

Via Email: tioreview@allenconsult.com.au

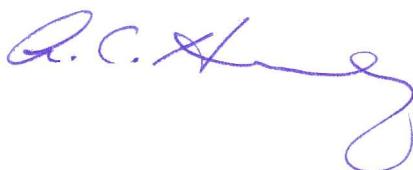
To whom it may concern,

Please find attached ACIF's submission in response to the Allen Consulting Group 2006, *Review of the Telecommunications Industry Ombudsman Scheme*, Issues Paper, July.

Please feel free to contact Jeni Floyd, ACIF's Compliance and Policy Manager directly, should you require further information or have any queries.

Jeni can be contact at 02 9959 9124 or email j.floyd@acif.org.au. Please note, Jeni is out of the office on Fridays.

Yours sincerely,



Anne Hurley
Chief Executive Officer
Australian Communications Industry Forum (ACIF)

**AUSTRALIAN
COMMUNICATIONS
INDUSTRY FORUM**

Level 9
32 Walker Street
North Sydney
NSW 2060 Australia

P.O.Box 444
Milsons Point
NSW 1565

T 61 2 9959 9111
F 61 2 9954 6136
TTY 61 2 9923 1911
www.acif.org.au
ABN 56 078 026 507

**ALLEN CONSULTING GROUP 2006, REVIEW OF THE TELECOMMUNICATIONS INDUSTRY
OMBUDSMAN SCHEME, ISSUES PAPER, JULY.**

ACIF SUBMISSION

1 INTRODUCTION

The Australian Communications Industry Forum (ACIF) is pleased to have this opportunity to make a submission to the *Review of the Telecommunications Industry Ombudsman Scheme*.

ACIF was established in 1997 to provide communications industry leadership for the promotion and development of industry-led outcomes that foster competition and innovation, while protecting the consumer. See further: www.acif.org.au.

ACIF operates on the central premise that the best outcomes for all stakeholders in Australian telecommunications can be achieved by co-operation. In this context, ACIF supports the policy objective of the *Telecommunications Act 1997* to promote the greatest practicable use of industry self-regulation without imposing undue financial and administrative burdens on industry.

Formed as a company limited by guarantee and a not-for-profit membership-based organisation, ACIF is ideally placed to reflect and respond to the dynamics of the telecommunications industry. Its membership comprises carriers/carriage service providers, business and residential consumer groups, industry associations and individual companies.

Please note, as of 1 September 2006, ACIF will merge with the Service Providers Association Inc (SPAN), to form a new peak body for the Australia's communications industry called 'Communications Alliance'.

ACIF's submission provides, where applicable, responses to the list of questions contained in '*The Allen Consulting Group Issues Paper*'. ACIF's responses are grouped under the various '*Benchmarks for Industry Based Dispute Resolution Scheme*' headings.

The views expressed in this submission are those of ACIF Ltd

In some instances, ACIF's comments should be treated as 'confidential'. These specific instances have been denoted as 'boxed yellow text' such as this:

Confidential portions of ACIF's submission have been denoted like this.

2 ACCESSIBILITY

It is ACIF's opinion that three major stakeholders have responsibilities to promote awareness of the TIO Scheme to consumers and the telecommunications industry, namely: the Australian Communications and Media Authority (ACMA), the Office of the TIO, and ACIF.

ACIF is committed to monitoring industry compliance with ACIF registered Codes. We have a clear interest in ensuring that our members, and more broadly service

providers, know about their obligations under registered ACIF Codes. ACIF is also committed to ensuring that all telecommunication service providers are aware of their obligations in relation to the Office of the TIO.

ACIF therefore welcomes opportunities to conduct joint awareness raising activities with the Office of the TIO and ACMA.

To this end, ACIF has undertaken several initiatives to raise awareness amongst both industry service providers and consumers about the Office of the TIO. For example, ACIF has produced a series of industry fact sheets to help service providers understand their obligations about a range of important matters. Some of the fact sheets are summarised below.

TIO Obligation Fact Sheets: Two of our fact sheets are aimed at communications service providers and VoIP providers, promoting best practice behaviour in relation to the way they handle customer complaints. They also remind CSPs and VoIP providers about their obligations in relation to the Telecommunications Industry Ombudsman.

In particular, the fact sheets counsel CSPs and VoIP providers about the most effective way to work with their customers and the TIO to resolve complaints. The fact sheets point out that the TIO regularly reports a high number of breaches of the ACIF Complaint Handling Code, and emphasises that dissatisfied customers should be informed about their right to escalate unresolved complaints to the TIO.

Complaint Handling: A third fact sheet provides a more detailed explanation of the ACIF Complaint Handling Code, and sets out the complaint handling rules and timeframes for dealing with various types of complaints, including complaints referred to industry members by the Office of the TIO.

Consumer Information Requirements - Rights and Safeguards: A fourth fact sheet is aimed at consumers, telling them about the type of information they are entitled to receive or request about their telecommunications service. It lists the information under the various categories that form the lifecycle of a customer relationship -- from the initial inquiry about a purchase, through the purchase process and until the relationship ends. Importantly, the fact sheet includes several references about the TIO, including the TIO's contact details, so that consumers understand their telecommunications rights and safeguards.

In all instances, ACIF has sought the TIO's input before publishing the fact sheets, to ensure that the TIO has had the opportunity to collaborate with ACIF on these important initiatives.

ACIF is committed to the future development of additional awareness raising publications as appropriate.

Our suite of free fact sheets can be downloaded online at http://www.acif.org.au/documents_and_lists/factsheets.

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These results are worth considering when measuring the success or otherwise of the 'accessibility' benchmark for the TIO Scheme and specifically the Issues Paper question: *To what extent should telecommunications service providers promote awareness of the TIO Scheme?*

It is important to note that because consumers look to their service provider as the key source of information about their rights and safeguards, it is important that any awareness raising initiatives target the service provider audience. If service providers are educated about consumer information rights and safeguards, then they will be in a position to better satisfy the information requirements of their end-users.

It is mandatory for service providers to be members of the TIO Scheme. Therefore, the Office of the TIO has established communication channels and protocols that allow them to communicate to most service providers. The TIO is in an ideal position to utilise those communication channels to provide its member base with important facts about their consumer information provision responsibilities.

The TIO's member eNewsletter could be one important communication channel utilised to help educate TIO members. After reviewing the member newsletter content, there does appear to be a scope for it to be enhanced to include additional content of critical relevance to the industry.

Additional comments regarding the Issues Paper question 'To what extent should telecommunications service providers promote awareness of the TIO Scheme?'

ACIF has a number of additional comments to make in response to this question. Firstly, we believe that service providers do have responsibility to promote the awareness of the TIO Scheme. However, any promotion of the Scheme by a service provider must be consistent with a service provider's business principles, internal policies and operational procedures.

Before providing our response to this question, ACIF believes it is important to provide some contextual information surrounding the high level of breaches of the ACIF Complaint Handling Code.

Complaint Handling Code Breaches: ACIF's key source of code breach data comes from the Office of the TIO. On a quarterly basis, the TIO sends ACIF industry statistics about breaches of ACIF codes for which it has conferral of power to handle complaints.

After careful analysis of this data over the past year, *ACIF C547:2004 Complaint Handling Code* received the highest number of recorded breaches. The breaches primarily relate to the following clause:

Section 7.6 Further Recourse

Clause 7.6.1 Upon request of Customers or where the Customer is dissatisfied with the outcome of a Complaint, Suppliers must advise Customers of their external avenues of recourse, (i.e., the TIO and, in matters of privacy, the TIO or the Office of the Federal Privacy Commissioner (OFPC)).

ACIF is aware that service providers are subject to the difficult challenge/balancing act of:

- a) promoting the TIO Scheme and/or referring a customer to the Office of the TIO as a result of a customer's expression of dissatisfaction,
- b) fully meeting their obligations of the TIO's expectation and interpretation of ACIF Complaint Handling Code clause 7.6.1, and
- c) acting as a first point of contact for customers who have a complaint and taking ownership of the customer's complaint until final resolution.

Service providers wish to take ownership of their customer enquiries and complaints. Indeed, it is in the provider's best interest to resolve all customer complaints, and this is a sentiment that ACIF members (who are also members of the TIO) have reinforced to us.

ACIF members have voiced their commitment to the obligations contained in the ACIF Complaint Handling Code and are keen to utilise internal complaint handling processes to fully resolve all customer complaints. Most members have robust internal complaint handling escalation processes in place and these processes promote the 'ownership' of a complaint by a service provider. This includes offering customers internal escalation avenues if they are unsatisfied with the way their complaint is being handled.

In short, ACIF believes that service providers do have an obligation to promote the TIO Scheme, but only to the extent that such promotion recognises the internal complaint resolution protocols followed by service provider.

3 FAIRNESS

TIO Position Statements: The Issues Paper has asked '*Do the TIO's position statements cover the range of issues that are likely to be the subject of a consumer complaint?*'

ACIF is aware that the Office of the TIO recently completed its review of the manner in which it categorises complaints and the keywords it uses to describe the subject matter of complaints. The TIO Keyword Classification Project was initiated in recognition of the changing face of the industry in terms of convergence and bundled products and to ensure that the method the TIO uses to classify complaints keeps pace with industry changes.

ACIF has been informed that the new keyword structure more closely matches the TIO's position statements and industry codes and will add further value to TIO data by more clearly identifying the causes for complaint.

ACIF would like to congratulate the TIO on this important initiative. We strongly support the development of new TIO position statements that address issue of convergence, such as billing disputes associated with mobile premium services. ACIF believes that the current suite of position statements do provide the industry with valuable information and we welcome the introduction of new and enhanced position statements.

Sufficient Guidance to Members: Under the benchmark 'fairness' the Issues Paper has asked whether members of the TIO are provided with sufficient guidance and information about a range of TIO functions. ACIF believes that the TIO's information resources (such as the TIO website and its annual report) provide clear and concise information that is of benefit to industry members. One suggestion is that it may be

beneficial for the TIO to explore implementing online 'interactive' training solutions for its members in the future.

Industry Codes and the TIO's Approach to Assessing Complaints: The Issues Paper has asked *'Do industry codes provide sufficient guidance to members and consumers of the TIO's likely approach for assessing the validity of a consumer's complaint and a member's response?'*

ACIF Codes do not purport to provide such guidance to industry and consumers, as well as information about how the TIO will interpret code clauses. Therefore, it is critical that the Office of the TIO provide timely feedback as to whether the Office believes it will have, or does have, problems interpreting a code rule, or any other drafting elements contained in a code.

4 ACCOUNTABILITY

The Issues Paper has asked whether the TIO provides sufficient information to bodies such as ACIF, and whether TIO documentation is easily understood/interpreted.

ACIF believes that generally the TIO does provide sufficient information to it. ACIF is committed to ensuring that the information it receives from the Office of the TIO is then used to increase awareness amongst its members about matters of compliance.

Although the statistics we receive from the Office of the TIO are voluminous and largely based on raw data, we have been able to transform the data into a user-friendly statistical output with accompanying meaningful analysis.

Our commitment to monitoring and analysing TIO statistics enables ACIF to provide its members with useful information and sound guidance about ways to enhance and demonstrate its compliance with codes.

We believe that merely tracking and reporting on complaint numbers will not improve performance, enhance compliance, or improve the level of service provided to consumers.

Our commitment to understanding the type, level and nature of complaints handled by the TIO is just one important aspect to promoting a culture of compliance in the Australian telecommunication's environment. The other critical piece is gaining an understanding of the behaviours that may need to be changed and how we can work with our members collaboratively on these issues.

To support the industry, we not only use the TIO statistics, but also have developed a range of resource material for our members. In addition, ACIF uses a range of media to promote compliance amongst the industry and to ensure that the industry is able to use the TIO data to improve its performance. For instance ACIF:

- regularly distributes articles in its monthly eNewsletter called 'Activate' about compliance and TIO compliance statistics (at a non identifying/aggregated level);
- produces a range of industry fact sheets to help raise awareness of important topics (including the Office of the TIO) to industry players;

- produces detailed and user-friendly compliance reports to help industry players gain a meaningful understanding about compliance trends and code breaches; and
- has developed a comprehensive Compliance Manual for its members to help them understand their obligations about code compliance and the manual features a range of information about the TIO.

In short, ACIF believes that the publication of statistics alone is not the optimal approach when trying to improve overall compliance by industry players. We agree that it is vital to provide the industry with complaint statistics, however, this must also be accompanied by a range of support material and meaningful analysis to assist the industry ultimately improve its level of service to consumers.

5 ACCOUNTABILITY

The Issues Paper has posed a number of questions relating to the TIO's Annual Report publication, including whether it requires additional information.

ACIF's primary comments concerning the TIO's Annual Report largely relate to the way in which the *statistical data* and analysis is reported against.

Key Telecommunications Indicators: Overall, we believe that the publication's usefulness to consumers, industry members, and regulatory stakeholders would benefit from the inclusion of more 'contextual' data. By this we mean the inclusion of key Australian telecommunications indicators such as:

- Number of subscribers (eg Internet customers);
- Number of mobile services (pre and post paid);
- Number of fixed lines;
- Etc

The inclusion of this information would be relatively simple and straightforward as ACMA now publicly produces annual figures based on these types of indicators¹. Such indicators would allow readers to understand overall industry complaint statistics within an objective context, such as:

- Number of overall billing complaint issues, compared to approximate number of bills issued by telecommunication service providers during the same period;
- Number of overall complaint issues, compared to number of telecommunication subscribers;
- Growth of complaints compared to growth in new service offerings.

The comparative/contextual data could only ever be based on approximate figures, however, it would nevertheless provide an important measurement tool to analyse overall industry performance.

Possible versus Confirmed Complaints / Level 1 and Level 2, 3, 4 Complaints: In the TIO's Annual Report, and quarterly TIO Talks publications, the TIO factually reports on

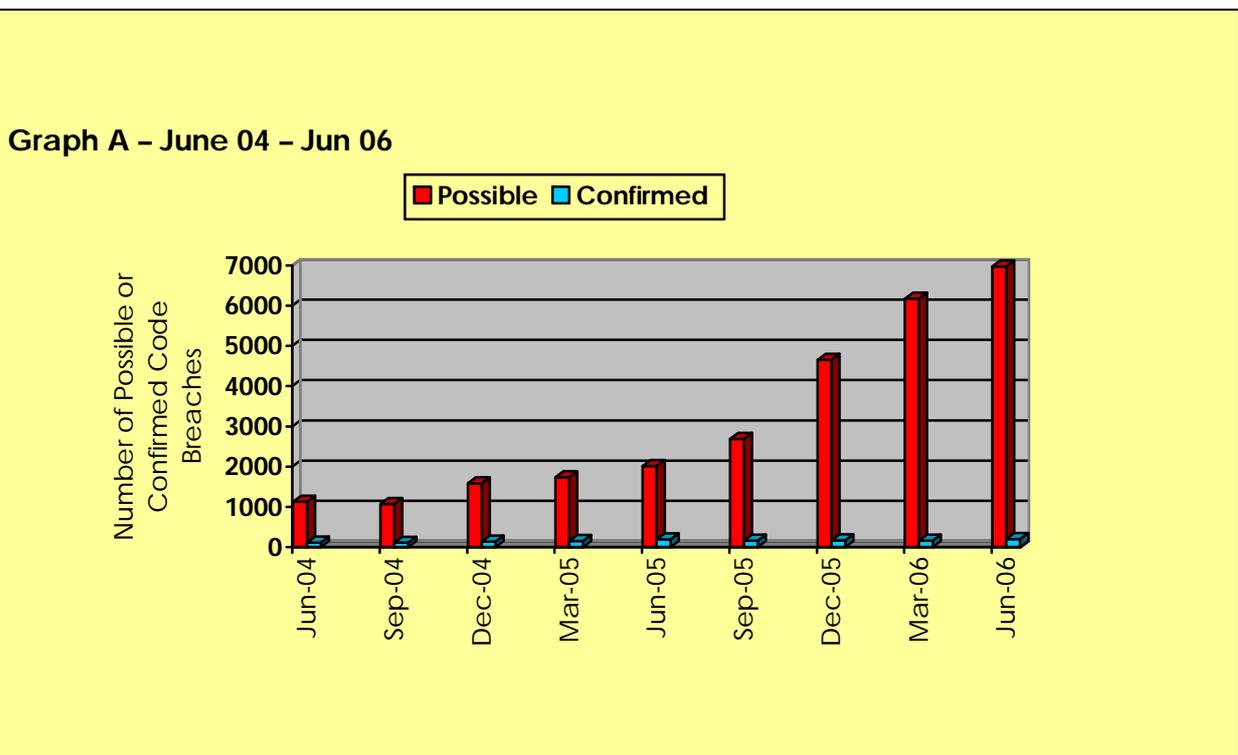
¹ ACMA's 2004 & 2005 key telecommunication indicators can be found online on page 4 of the following ACMA publication
<http://www.acma.gov.au/acmainterwr/assets/main/lib100449/tp%202005%20chapter%201.pdf>.

the total number of complaints, issues and code breaches². The Office of the TIO consistently breaks complaint statistics down by possible and confirmed code breaches, with possible and confirmed code breach numbers being combined to show overall complaint numbers. In addition, the TIO reports against overall complaint numbers, and breaks the complaints down using the four-tier complaints classification system.

Notwithstanding that the TIO does breakdown complaint statistics³, ACIF has observed that generally, TIO commentary regarding the statistics is heavily skewed towards *overall/total* complaint numbers. Whilst this is not 'incorrect', it does not give enough weight to the fact that overall possible / Level 1 complaint statistics have remained relatively static over a significant period of time. This is demonstrated below.

Table A and Graph A Background Information: The Office of the TIO reports against 'Possible' and 'Confirmed' breaches of ACIF Codes each quarter. When looking at the comparison between these two categories of Code breaches over time, you can see that 'Confirmed' Code breaches have remained relatively static, whereas 'Possible' Code breaches show a steady rise in numbers. Table A and Graph A chart the trend⁴.

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² The definitions of these terms are clearly noted by the TIO in various publications and the TIO's website.

³ Generally, it appears that code breach statistics are often reported against using the possible/confirmed definition, and other overall complaint numbers differentiate complaints by the four-tier complaints classification system.

⁴ These figures should be treated as confidential as they have been supplied to ACIF from the Office of the TIO for our internal use only. Please confirm with the TIO as to whether Table A and Graph A can be treated as 'public' information' in this submission.

TIO Annual Report Example: In the TIO's 2004-2005 Annual Report on page 2, it was reported that the TIO handled 78, 915 complaints during the year, which is a 31.9% increase from the previous year. Whilst this is factually correct, this *headline* commentary did not differentiate between the proportion of 'confirmed' and 'possible' complaints that made up the total 78, 915 figure. Additionally, most commentary throughout the report spoke to overall complaint figures rising, but there was very little commentary provided about the significant difference between possible (Level 1) and confirmed (Level 2, 3 & 4) breach numbers.

It is worthwhile noting that generally, industry members often refer to Level 1 / 'Possible' complaints as being 'alleged'. This is because complaints logged at Level 1 have no formal investigation of the breach conducted by the TIO. Whereas, confirmed breaches are generally logged at Level 2 and above and do have formal investigation conducted by the TIO and member.

In ACIF's opinion, the stakeholders who read the TIO publications should be provided with this important information so they can be fully informed about overall industry performance. The omission of this important data does not serve the industry, enhance consumer awareness, or adequately inform those that seek to objectively assess the telecommunication industry's performance.

6 CLOSING

ACIF hopes that the comments we have provided will prove to be of assistance to the Office of the TIO and its review of the Scheme.

Ends