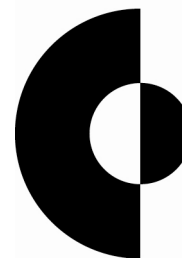


12 December 2011



**Telecommunications  
Industry  
Ombudsman**

**Simon Cohen  
Ombudsman**

2011-12 Regional Telecommunications Review Secretariat  
Department of Broadband, Communications and the Digital Economy  
GPO Box 2154  
CANBERRA ACT 2601  
Email: [secretariat@rtirc.gov.au](mailto:secretariat@rtirc.gov.au)

Dear Sir/Madam

**Issues Paper: 2011-12 Regional Telecommunications Review**

Thank you for providing the Telecommunications Industry Ombudsman (TIO) with the opportunity to contribute to the 2011-12 Regional Telecommunications Review and the associated Issues Paper.

Please find enclosed the TIO's submission for the consideration of the Review Committee.

This submission is in addition to the initial submission provided to the Review Committee on 1 December 2011. Our submission provides data and observations on some of the issues impacting on consumers in regional and remote Australia. We have also focussed our comments on specific questions raised in the Issues Paper where these relate to our experience in dealing with complaints from consumers living in regional and remote areas in Australia.

We would be pleased to provide the Regional Telecommunications Review Committee with further information or clarification on our complaint statistics if required. Please contact our Manager for Planning and Stakeholder Engagement, David Brockman, on 03 8600 8700 should you have any questions or require further information.

Yours sincerely

Simon Cohen  
**Ombudsman**

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*"... providing independent, just, informal and speedy resolution of complaints"*

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**Telecommunications Industry Ombudsman Ltd ABN 46 057 634 787**

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Telecommunications Industry Ombudsman

# **Telecommunications Industry Ombudsman – Submission on the Issues Paper: 2011-12 Regional Telecommunications Review**

December 2011



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## About the TIO

The Telecommunications Industry Ombudsman (TIO) is a free and independent alternative dispute resolution service for small business and residential consumers in Australia who have a complaint about their telecommunications services.

We aim to resolve these complaints quickly in a fair, independent and informal way, having regard not only to the law and to good industry practice, but also to what is fair and reasonable in all the circumstances. Before the TIO becomes involved in a complaint, the service provider is given an opportunity to resolve the complaint with its customer.

We are independent of telecommunications companies, consumer groups and government.

For most complaints we receive, we establish the issues in dispute and the resolution sought, and then refer the consumer or small business to a designated point of contact at the relevant telephone or internet service provider. The provider is given a final opportunity to resolve the matter directly with the consumer, without the TIO's direct involvement. Around 90% of complaints we receive each year are resolved at this stage of the process.

Where the consumer and service provider do not reach an agreement at this early stage, the TIO becomes more directly involved by seeking to conciliate an agreed resolution between the parties. Around 7% of complaints are resolved using this conciliation process.

Complaints that cannot be resolved by conciliation are escalated for formal investigation by the TIO. If the complaint remains unresolved after formal investigation and the TIO is of the view that it would be fair and reasonable to do so, the TIO can make binding determinations up to a value of \$30,000 and non-binding recommendations up to a value of \$85,000 in respect of each complaint.

We record complaints according to service types – internet, mobile, landline and mobile premium services (MPS), and by the types of issues that these complaints present. These issues include connection delays, credit management disputes, contractual disputes, customer service/complaint handling and billing disputes. Every complaint involves at least one issue. Some complaints can involve multiple issues – for example, a complaint about a delay in rectifying a faulty landline service may also involve a claim that the consumer's complaint about this fault was not acknowledged or escalated (a complaint handling issue).

Further information about the TIO is available at [www.tio.com.au](http://www.tio.com.au).

## **TIO approach to the Issues Paper: 2011-12 Regional Telecommunications Review**

The TIO welcomes the opportunity to provide our comments on telecommunications services in regional, rural and remote areas within Australia.

Since the last Regional Telecommunications Review (the Glasson Review) was undertaken in 2007-08, we note that much has changed within the industry – in terms of telecommunications policy, regulation and legislation, as well as consumer behaviours and preference. The National Broadband Network and its implementation (including transitional arrangements) will have a significant impact on consumers who live in regional, rural and remote Australia. New technology and devices will also have an impact on the way in which these consumers access and use telecommunications services.

In providing a response to the Issues Paper: 2011-12 Regional Telecommunications Review (the Issues Paper), we have drawn on our extensive experience in handling and resolving complaints from consumers about their telecommunications services. We have focussed our comments in this submission on the range of complaints and issues that we receive from consumers living in regional and remote areas in Australia. We have also included where relevant, complaint statistics and case studies from the complaints we received from these consumers, to clarify our comments on particular areas.

We set out in this submission:

- an overview of TIO complaint statistics, including key trends about new complaints from regional and remote areas
- our comments on three of the key areas (and associated questions) outlined in the Issues Paper:

(a) Consumer issues in regional and remote areas

*Q16: Are there any significant consumer issues specific to rural and remote communities that are not being addressed?*

*Q17: Do people in regional areas, particularly those in vulnerable and disadvantaged groups have appropriate access to information about their consumer rights and the service options available to them?*

*Q18: What additional strategies could be put in place to assist individuals and groups to better understand their consumer rights and responsibilities?*

(b) Mobile devices and unexpected high bills

*Q20: How can education and awareness of the risks of using mobile devices such as smart phones be improved for consumers in regional areas?*

(c) Other issues

*Q21: Are there any other issues relating to telecommunications services in regional Australia that require consideration?*

- relevant case studies in Appendix 1
- an outline of our complaint issues categories in Appendix 2.

We trust that our comments, complaints data and case studies will be helpful in the Review Committee’s consideration of telecommunications services in regional, rural and remote Australia.

## Complaints to the TIO

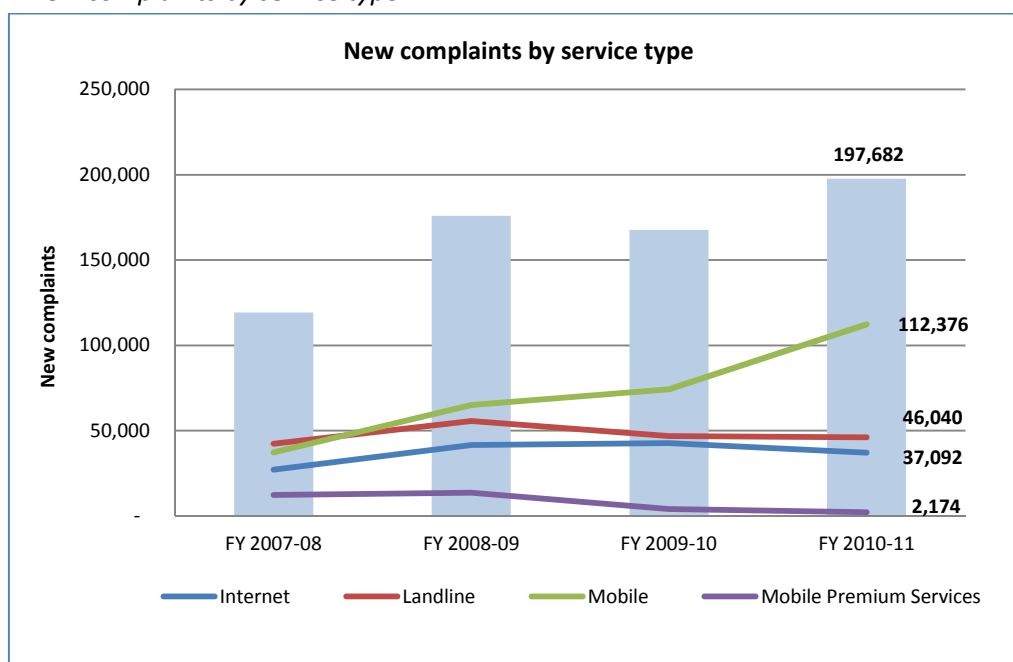
### Overall complaint trends

When a consumer – residential or small business – contacts us about an expression of grievance or dissatisfaction about a matter within the TIO’s jurisdiction that the service provider has had an opportunity to consider, we record this as a ‘new complaint’.

The TIO recorded and handled around 197,682 new complaints from small business and residential consumers in 2010-11. This compares with 167,772 new complaints recorded during 2009-10. Customer service, complaint handling, billing and fault issues continued to be key areas generating new complaints to the TIO in 2010-11.

The graph below shows the breakdown of new complaints recorded by the TIO by service type – internet, landline, mobile and mobile premium services (MPS) – over the past four years.

*Graph 1: New complaints by service type*



## New complaints from regional and remote areas

### *Geographical classification*

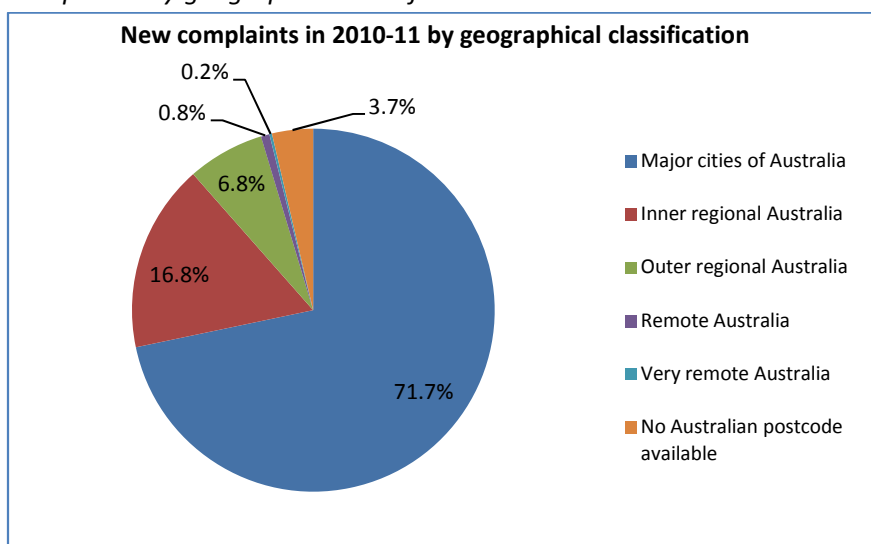
We capture consumers' postcode details each time we record a new complaint. We are able to identify the geographical location of complaints based on this postcode information. We use the Australian Standard Geographical Classification (ASGC) Remoteness Structure to categorise geographical locations in Australia into five region types. They are: major cities, inner regional Australia, outer regional Australia, remote Australia and very remote Australia.

The data in the sections below categorises new complaints we receive from consumers in regional and remote areas using the ASGC classification.

### *New complaints by geographical classification*

New complaints from regional and remote Australia (comprising inner regional, outer regional, remote and very remote Australia) formed 24.6% of total new complaints received by the TIO in 2010-11. The graph below illustrates the proportion of new complaints from regional and remote Australia in comparison to major cities, in 2010-11.

*Graph 2: New complaints by geographical classification in 2010-11*



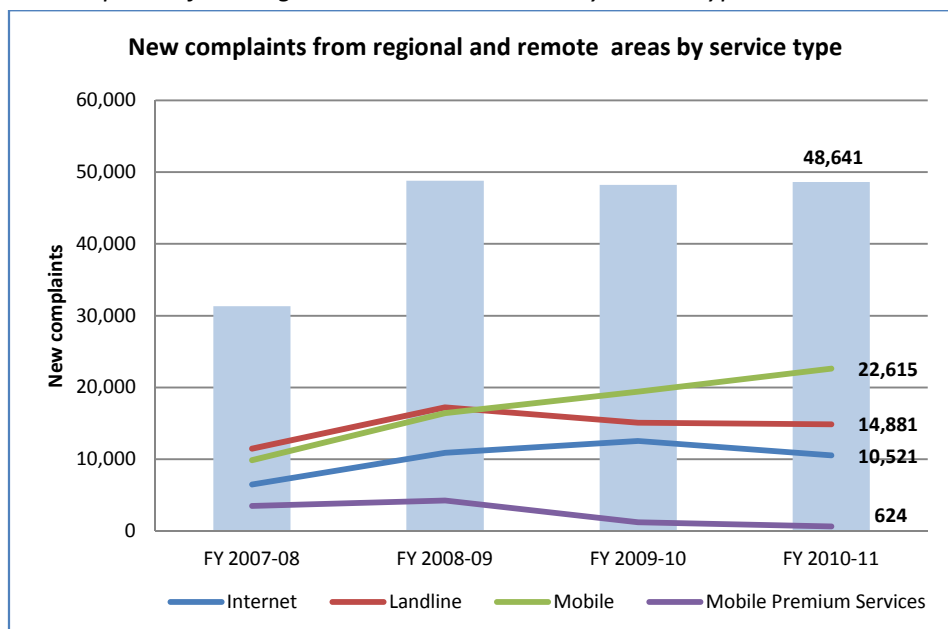
### *Regional and remote new complaints by service type*

We received 48,641 new complaints from consumers in regional (inner and outer) and remote (remote and very remote) Australia in 2010-11. This is a very small increase of 0.8% compared to 2009-10 when we received 48,240 new complaints, and contrasts with the 17.8% increase in overall new complaints received by the TIO in 2010-11 from all areas in Australia. This difference could possibly be due to regional and remote areas having fewer services associated with two of the main complaint trends in 2010-11 – Vodafone's network issues and the growth in the mobile market driven by smart phones<sup>1</sup>. We note however that new complaints from consumers in regional and remote Australia in 2010-11 increased by 55.4% compared to 2007-08 when the last Regional Telecommunications Review was undertaken.

<sup>1</sup> See the TIO's Annual Report 2010-11 for more information about main complaint trends for all new complaints, at <http://annualreport.tio.com.au/>.

The graph below illustrates the collective number of new complaints received by the TIO from consumers in regional and remote areas over the past four years by service type – internet, landline, mobile and mobile premium services.

*Graph 3: New complaints from regional and remote areas by service type*



In the TIO’s 2007 submission to the Glasson Review, we noted that “...landline complaints for outer regional, remote and very remote areas have declined over the last three years, while mobile and internet complaints have increased.” Since 2008-09, new complaints relating to landline services in most areas have continued to decrease. However, in very remote areas, while complaint numbers are low, new complaints regarding landline services have been steadily increasing since 2009-10, with an increase of 29.1% in 2010-11. New complaints about landline services in regional and remote areas formed 32.3% of all landline new complaints received by the TIO in 2010-11.

Since 2009-10, new complaints relating to internet services from consumers in regional and remote areas have decreased. It is possible that this has been due to more consumer awareness of internet plans and contracts and greater stability with the services provided as our new complaints data for regional and remote areas reflects that the number of internet fault complaints have stabilised. New complaints about internet services in regional and remote areas formed 28.4% of all internet new complaints we received in 2010-11.

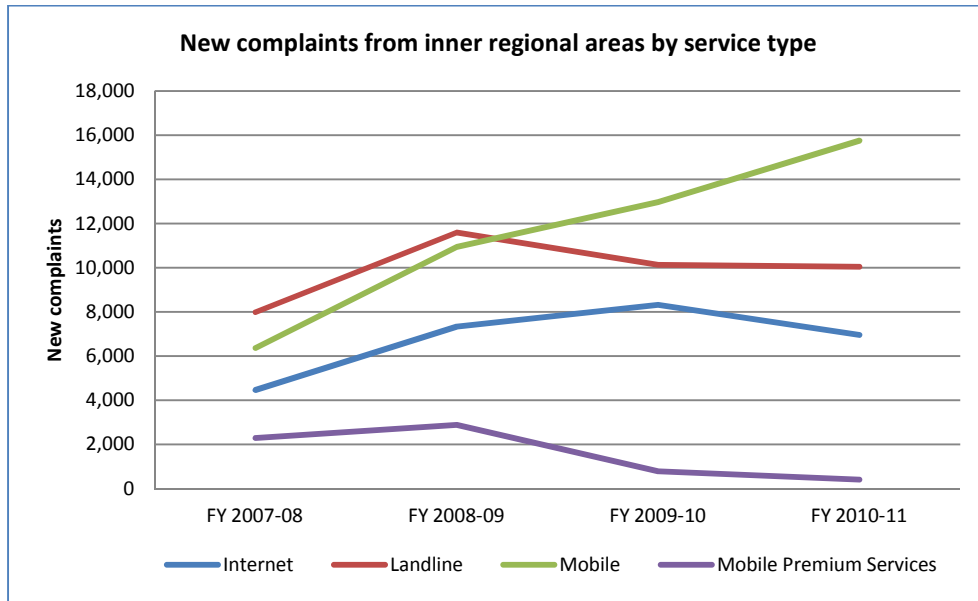
As reported in our recent [Annual Report for 2010-11](#), more than half of the new complaints received from all consumers related to mobile services. This reflects the changing usage patterns of telecommunications consumers throughout Australia as growing numbers of users forgo traditional landline services for mobile services.

This is similarly borne out in our analysis of new complaints for mobile services in regional and remote areas. As shown in Graph 3, the number of new complaints received by the TIO in relation to mobile services regional and remote areas since 2007-08 has significantly increased, with a 16.6% increase in 2010-11 following a 17.9% increase in 2009-10. In regional and remote areas, the increase in new complaints about mobile services in 2010-11 has predominantly occurred in inner

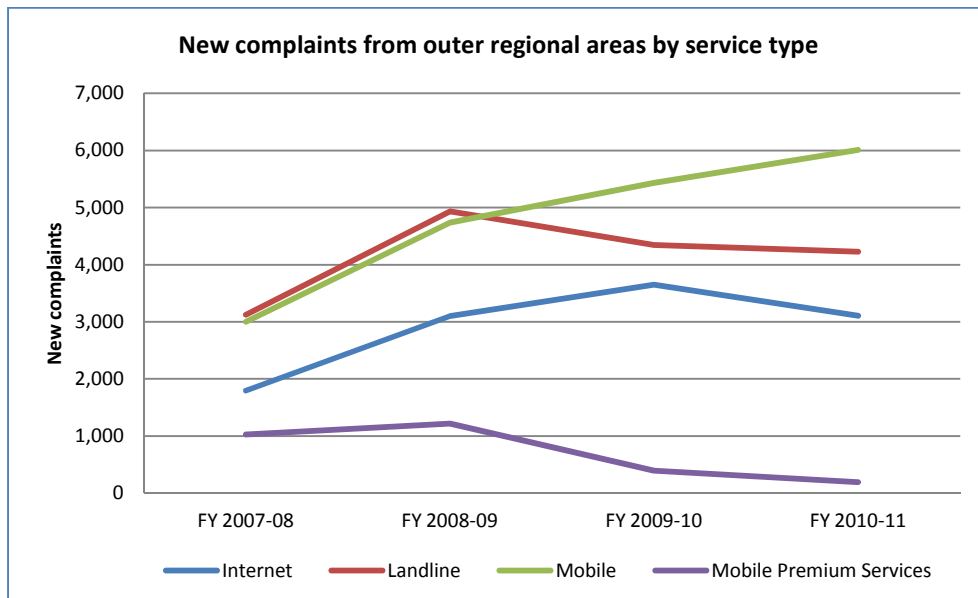
and outer regional areas (with increases of 21.5% and 10.6% respectively). New complaints about mobile services from consumers in regional and remote Australia formed 20.1% of all mobile new complaints we received in 2010-11.

The following four graphs illustrate the specific geographical classification of new complaints – inner regional, outer regional, remote and very remote – as well as by service type over the past four years.

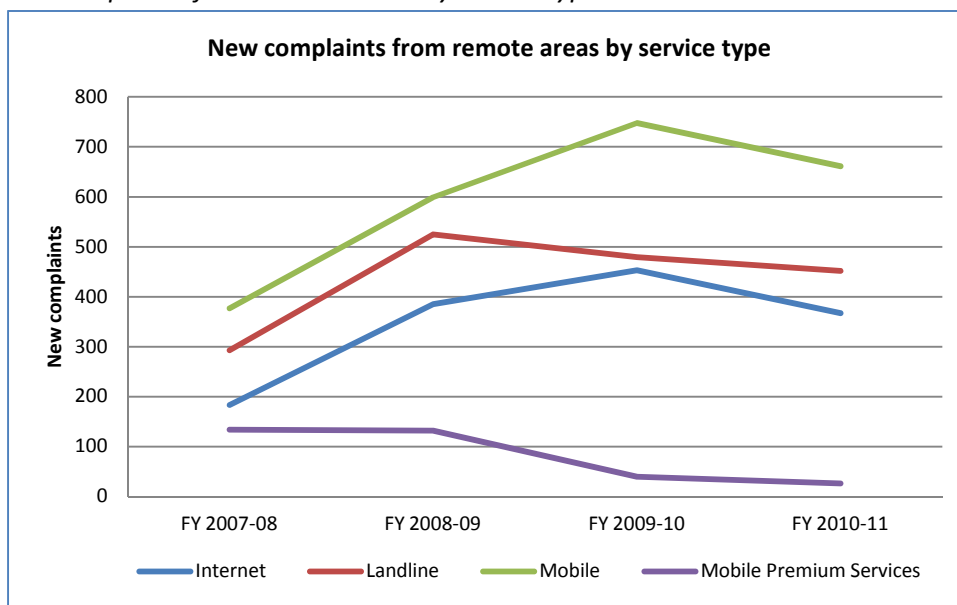
*Graph 4: New complaints from inner regional areas by service type*



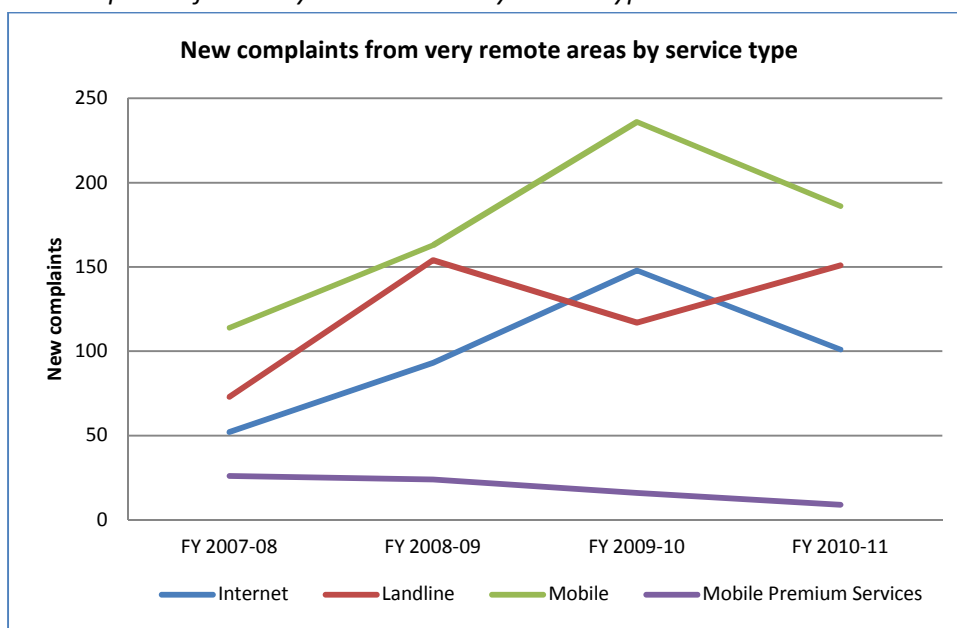
*Graph 5: New complaints from outer regional areas by service type*



*Graph 6: New complaints from remote areas by service type*



*Graph 7: New complaints from very remote areas by service type*



**Issues for new complaints in regional and remote areas**

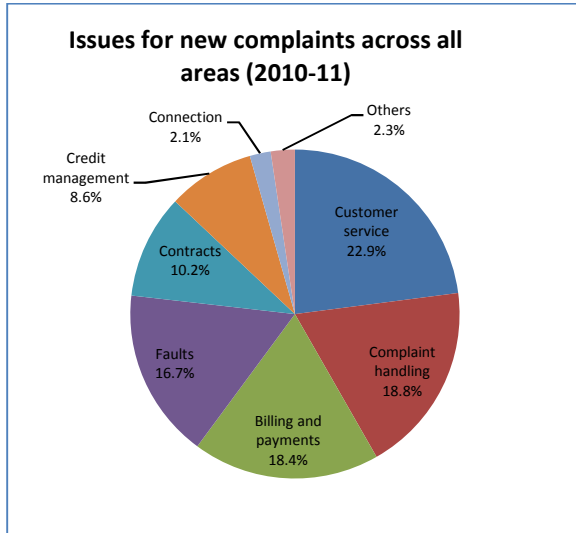
*Main issues and trends*

We record new complaints by the types of issues that these complaints present. These issues include connection delays, credit management disputes, contractual disputes, customer service/complaint handling and billing disputes. A brief outline of each of these issues is set out in Appendix 2.

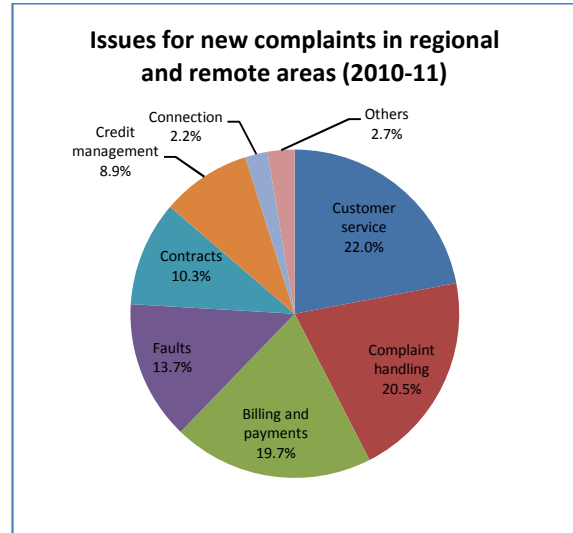
The main issues relating to new complaints in regional and remote Australia reflect similar issues in new complaints across all areas. However, billing and complaint handling issues are somewhat higher in new complaints from regional and remote areas when compared to all new complaints received by the TIO in 2010-11.

Graphs 8 and 9 illustrate the difference between the issues for new complaints across all areas and the issues for new complaints from regional and remote areas in 2010-11.

Graph 8: Issues across all areas



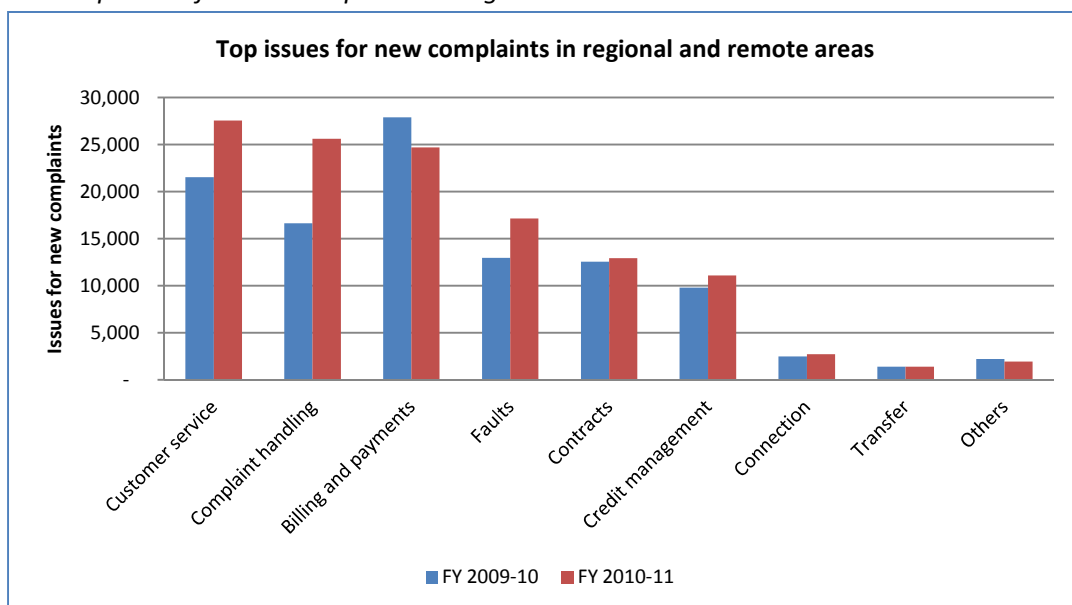
Graph 9: Issues in regional and remote areas



Complaint handling and customer service issues in regional and remote areas significantly increased in 2010-11 compared to 2009-10, with increases of 54.0% and 27.9% respectively. Consistent with overall trends for new complaints across all areas, fault issues for new complaints in regional and remote areas increased by 32.3% in 2010-11, mainly driven by mobile and landline fault issues. Credit management and contract issues increased by 13.4% and 2.9% respectively in 2010-11. These issues also mainly related to mobile and landline services. Billing and payment issues decreased by 11.4% in 2010-11.

The graph below highlights the changes in issues recorded for new complaints in regional and remote areas over the past two years.

Graph 10: Top issues for new complaints in regional and remote areas



*Key trends for very remote areas*

While the new complaints in very remote areas are overall low, our data indicates that issues such as faults, credit management and contracts – particularly in relation to landline services – have increased in 2010-11 compared to 2009-10. Landline fault issues increased by 50.0%, credit management issues increased by 20.8% and contracts issues increased by 21.1% in 2010-11.

Issues about internet connections in very remote areas increased by 44.4% in 2010-11.

*Key trends for remote areas*

Substantial increases were observed in new landline complaints in remote areas for the following categories: fault issues increased by 27.8%, contracts issues increased by 25.4% and connection issues increased by 21.2% in 2010-11.

Issues about internet connections in remote areas increased by 33.3% in 2010-11.

*Key trends for outer regional areas*

As for outer regional areas, faults and complaint handling issues in 2010-11 about mobile services have significantly increased by 81.7% and 71.0% respectively compared to the previous year. Credit management issues for mobile services increased by 26.3%.

Contracts issues for landline services increased by 22.0%. A smaller increase of 13.9% was observed for issues about internet connections in outer regional areas.

*Key trends for inner regional areas*

Issues about mobile related faults and complaint handling were the main drivers of new complaints in inner regional areas in 2010-11, where these issues increased by 83.3% and 84.7% respectively. Issues about delays in connecting mobile services also increased by 40.9% in inner regional areas. Credit management issues for mobile services increased by 28.4% with contract issues increasing by 16.9% in 2010-11.

Landline contract issues increased by 29.7% in 2010-11, with customer service and complaint handling issues about landline services also recording high increases of 27.7% and 54.1% respectively. Internet connection issues also increased by 21.9% in inner regional areas in 2010-11.

**Consumer issues in regional and remote areas**

*Q16: Are there any significant consumer issues specific to rural and remote communities that are not being addressed?*

*Q17: Do people in regional areas, particularly those in vulnerable and disadvantaged groups have appropriate access to information about their consumer rights and the service options available to them?*

*Q18: What additional strategies could be put in place to assist individuals and groups to better understand their consumer rights and responsibilities?*

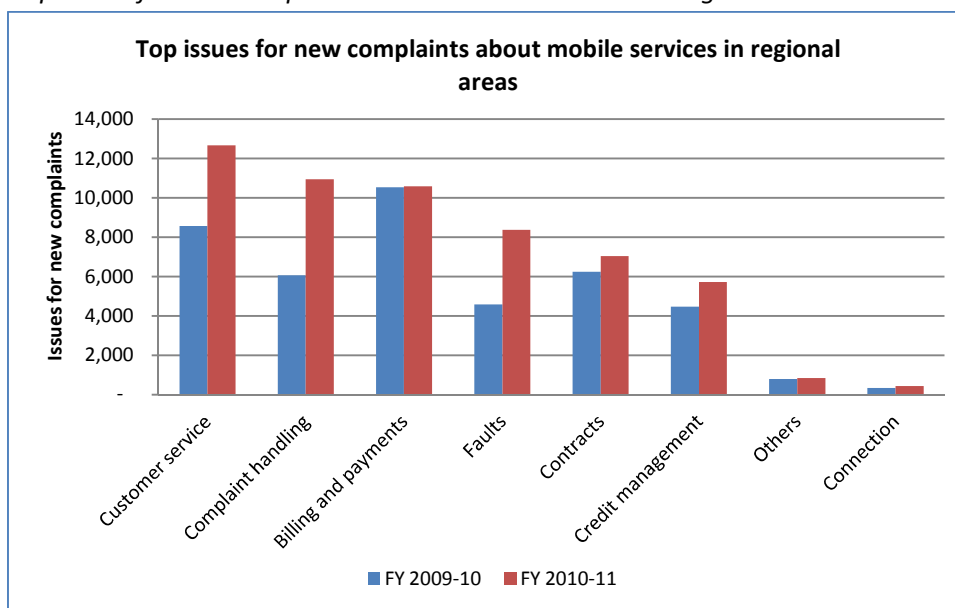
**Issues about mobile services**

As noted above, there has been a significant increase in new complaints regarding mobile services in regional areas in Australia. It is likely that increasing populations in regional centres as well as

changes in the manner in which consumers use their mobile services have led to a notable rise in issues about new complaints.

While mobile billing issues have been consistently the highest complaint issue in inner and outer regional areas over the past few years, issues about mobile faults have also significantly increased in 2010-11, in part due to the Vodafone network issues in 2010-11. Credit management issues and contractual issues for mobile services have also increased in 2010-11. The graph below illustrates the most common issues for new complaints about mobile services in regional areas.

*Graph 11: Top issues for new complaints about mobiles services in regional areas*



**Landline fault repair delays**

Since 2007-08, new complaints relating to connection and faults on landline services in regional and remote areas have declined. However, there have been increases in new complaints about landline fault issues from consumers in inner regional, remote and very remote areas in 2010-11.

The TIO acknowledges that there can be a number of obstacles in place for providers to expeditiously assist consumers in regional and remote areas who are experiencing ongoing or intermittent faults and difficulties. These obstacles include distance, environmental and geographical barriers, liaising with land owners and occupiers and the costs involved as a result.

In our experience, the level of detriment experienced by consumers when these types of complaints occur is substantial. The suitability of alternative options available to the consumer such as mobile phones – while repairs or infrastructure works for the landline service are being undertaken – is more limited than for metropolitan consumers. Even when alternative options are provided, some complaints may take many months and even years to fully resolve. Further, the isolation of some consumers only increases the importance of effective communication devices. For consumers in regions with little or poor mobile coverage, a working and reliable landline voice service is critical to their ability to run their businesses, have access to essential and emergency services or to keep in contact with family and friends.

The TIO deals with complaints for consumers in regional and remote areas where the timeframes for having faults rectified or services connected may be far longer than their city counterparts. While this may be a consequence of distance and telecommunications providers' lack of resources in these areas, there is also anecdotal evidence that consumers are not informed of their rights and their provider's obligations towards them, particularly in relation to the Customer Service Guarantee.

The performance standards in the Customer Service Guarantee Standard and retail performance benchmarks are key arrangements to provide timely repairs and connections. The TIO considers that these standards and benchmarks should be closely monitored to ensure that they are achieving their purpose and, if required, any refinements over time can be identified and implemented.

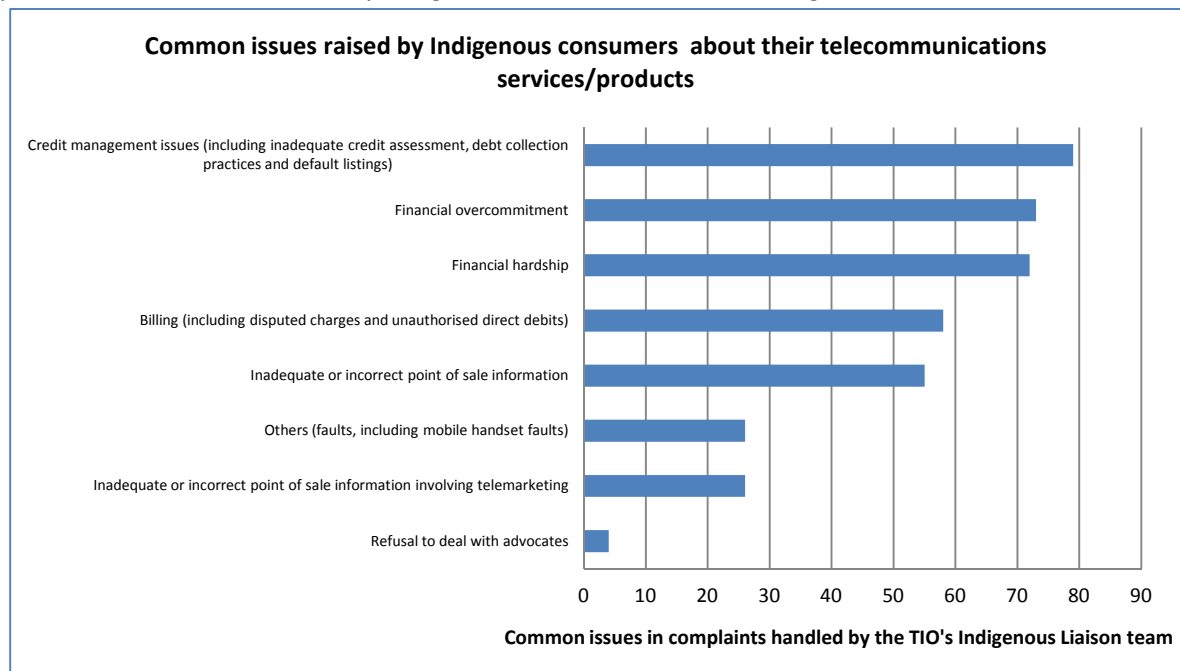
Case Study 1 and Case Study 2 in Appendix 1 illustrate the lengthy delays regional and remote consumers may face when seeking to have a service connected or a fault rectified and the impact that this can have on consumers who live in these areas.

### **Poor sales/credit management practices impacting on Indigenous consumers**

To better assist Indigenous consumers, we established a specialised Indigenous Liaison team as a dedicated contact point to deal with complaints from Indigenous consumers or their advocates. The TIO also receives complaints from Indigenous consumers that may be dealt with through our contact centre – we do not separately differentiate these complaints from other complaints received via our contact centre.

The TIO's Indigenous Liaison team has directly handled around 114 complaints from Indigenous consumers or their advocates in the past 18 months. These complaints are usually promptly resolved by the service providers after the TIO gets involved. Our analysis of the 114 complaints indicates that these complaints have common issues (usually multiple issues) relating to billing, financial over-commitment, debt collection and credit management. The graph below outlines these common issues.

*Graph 12: Common issues raised by Indigenous consumers with our Indigenous Liaison Team*



From our analysis of these complaints, we have noted several issues of concern including:

1. *Improper sales practices which exert pressure on Indigenous consumers to agree to a product or service that they may not have wanted or that does not suit their needs or circumstances.* Indigenous consumers who go into a telecommunications store to purchase a pre-paid mobile service or who may be telemarketed by a telecommunications provider, may be persuaded to sign up for a more expensive post paid mobile plan (or several plans) when they may not be able to afford this.
  
2. *The adequacy and appropriateness of point of sale information by telecommunication providers in relation to Indigenous consumers.* Complaints directly handled by our Indigenous Liaison team suggest that some of these consumers are provided inadequate information about the nature of the products and services on offer, their cost and functionality, and the overall suitability of these products and services. These consumers may also not be given information about the calculation of charges, how these can continue to accumulate after the included value has been used, and how they can manage or control their expenditure.  
  
 These consumers then face large bills although they believed that they would not be charged more than the 'capped' plan that they signed up for.
  
3. *Inadequate credit assessments undertaken by service providers resulting in some Indigenous consumers being signed up on post paid fixed line or mobile services (with, in effect, no credit limit), when these consumers have limited income or means to pay for these services.* These consumers may also not be advised or not understand how to minimise their continuing exposure to debt. Again, significant amounts of debt accumulate and these consumers may face financial hardship and distress in trying to pay off the debt.

4. While the three issues outlined above are each of individual concern, they also are likely to result in these consumers facing unusually high debt, being pursued by debt collectors or having a default listed in their credit files. These issues can also cause or add to the consumer's financial hardship. Each of these three issues can be the catalyst for consumer detriment where the end result may be a large debt, credit default or financial hardship.

Case Study 3 in Appendix 1 is an example of some of the issues outlined above.

The staff and dealers of service providers need to be aware of and recognise the likelihood that there may be limited understanding of telecommunications terminology – for example, phrases such as 'coverage', 'cap', 'downloads' and 'included value'. We believe that this limitation may increase the vulnerability of Indigenous consumers in remote communities and as such, providers should consider this factor when approaching or being approached by these consumers.

It may be appropriate to consider special obligations to be placed upon providers who promote their services in regional and remote communities. These obligations might include:

- (a) consultation between providers and communities to ensure an awareness of cultural differences and a better understanding of the appropriate promotion of suitable products or services so that consumers can engage with confidence
- (b) suitable training for the providers' sales and other staff who deal with consumers in Indigenous communities to ensure that the providers' staff:
  - recognise cultural issues and potential vulnerabilities of these consumers
  - modify their sales practices and customer service to better meet the needs of these consumers
- (c) implementing an appropriate financial hardship policy with fair and flexible payment arrangement options.

### **TIO Outreach – Observations on consumer awareness about rights and options**

The TIO undertakes a number of outreach activities each year to reach consumers who may lack awareness or understanding of what the TIO does or who may encounter barriers such as a lack of internet access, financial, cultural or language difficulties. In 2010-11, we participated in a number of outreach activities specifically targeting regional and remote communities<sup>2</sup>.

Our observations from some of these outreach activities – in so far that they relate to consumer awareness about their rights and options – are briefly outlined below:

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<sup>2</sup> These activities included: Australian Telecommunications Users Group (ATUG) Regional Roadshows that were held in a number of regional communities in Victoria and Queensland; Knock Out Rugby League Challenge Indigenous, Woy Woy, New South Wales; Indigenous Consumer Assistance Network, Cairns, Queensland; Latrobe Valley Community Service Providers, Morwell, Victoria; Agfest Field Day, Launceston, Tasmania. We also continued our strong link with the Indigenous Consumer Assistance Network based in Cairns, by providing training to its staff and clients in far north Queensland. For more information about our outreach activities, please see the TIO's Annual Report 2010-11 at <http://annualreport.tio.com.au/>.

1. Prior to participating in Regional Roadshows, we undertook extensive publicity in each location which included stories being placed in local newspapers and interviews on local ABC radio stations. We have observed that attendance for some of these events were low, although it was anecdotally reported that community leaders are likely to share their increased awareness of the TIO with the rest of the community. We noted that while older people were well represented at these events, younger people were not.
2. During our visit to the Northern Territory in August 2011, we had a stall at a careers expo at a local high school in Alice Springs which was attended by approximately 700 students, their parents and caregivers. This presented an opportunity for the TIO to speak to consumers about their telecommunications services and educate local residents on the existence of the TIO and the service we provide. We noted that:
  - a lack of choice between providers was referenced by consumers as an issue
  - poor mobile coverage in remote communities remains an issue for consumers. Despite this, the number of people using mobile services, particularly those under the age of 25, is growing.
3. During our visit to the Melaleuca Refugee Centre, concerns were raised regarding the difficulties faced by recent migrants in their interactions with telecommunications service providers. In addition to this, concerns were raised about point of sale advice and credit assessment processes as these were seen to be inadequate and created a cycle of vulnerable consumers accumulating significant debts.

In light of our observations from these outreach activities, the TIO considers that consumers in regional and remote areas may have limited knowledge of their rights, responsibilities and options as telecommunications users. We make the following observations:

- (a) Greater use of telecommunications services amongst young people in regional and remote communities warrants an increase in the availability of information about these services. This may include promoting awareness of where consumers can go to obtain advice and assistance. In this regard, a focus on educating young people through school programmes on telecommunications and consumer issues, may be a viable way to promote this awareness.
- (b) Additional training and resources for frontline staff at community centres or specific organisations who give assistance to consumers in regional and remote areas – such as financial counsellors or outreach organisations – would ensure that consumers seeking assistance about telecommunications issues are provided timely, accurate and relevant advice.
- (c) The TIO has provided a number of recommendations and suggestions in our [November 2011 submission](#) on the public comment draft of the Telecommunications Consumer Protection (TCP) Code. We believe that a strong and robust TCP Code, with enhanced protections around point of sale advice, sales practices, credit management and complaint handling processes, would provide greater protections for all consumers. It is imperative that consumers in regional and remote communities are made aware of their rights, responsibilities and service provider obligations under the new TCP Code. Our further comments on the TCP Code are set out below.

## **Additional strategies**

Although the TIO has undertaken the strategies outlined above in order to connect with consumers in regional and remote areas, we are also aware that these consumers may continue to lack information on their rights and responsibilities and that their providers may not be supplying required information or information which is relevant to the consumer in the circumstances.

The TIO's complaint statistics indicate that the same issues regarding complaint handling and customer service confronting consumers in metropolitan areas also challenge those in regional and remote areas. The Australian Communications and Media Authority (ACMA)'s [Reconnecting the Customer report](#) identified these issues and proposed changes to industry practices in order to improve consumer experiences. The ACMA has also made recommendations that these changes should be incorporated in the TCP Code that is currently under review.

We record possible and confirmed breaches of the TCP Code which details the protections afforded to consumers and outlines what actions providers should take through the "life cycle" of a service. This includes sales, service and contracts, billing, credit and debt management, transferring between providers and complaint handling. The TIO considers that providers have a responsibility to not only comply with the provisions in the Code but also to ensure that their customers are aware of and have access to information regarding these provisions. Further, it is vital that service providers provide sufficient training and instruction to front of house staff to enable them to comply with each of the provisions within the Code.

We believe that the proposals outlined in the ACMA's *Reconnecting the Customer* report, if incorporated into the new TCP Code, would provide some redress for the issues experienced by consumers in regional and remote areas. For example, greater protections for consumers have been proposed in a number of areas including:

- improved advertising practices of providers to ensure increased clarity of the services offered and associated costs of the services
- greater emphasis on service providers offering services that are suitable for and meet the needs of their customers
- improved spend management tools so that there is earlier notification of increases in usage of services
- better management of complaints – through improved internal dispute resolution processes and referral of dissatisfied consumers to external avenues of redress such as the TIO.

In addition, the TIO considers that the industry needs to ensure that staff – including sales and customer service representatives – are adequately trained and aware of other relevant telecommunications regulation or legislation such as the Customer Service Guarantee (CSG) Standard. Case Study 2 in the Appendix 1 illustrates the need for both consumers and their provider to be educated on legislation such as the CSG Standard to ensure consumer safeguards are not ignored.

## Mobile devices and unexpected high bills

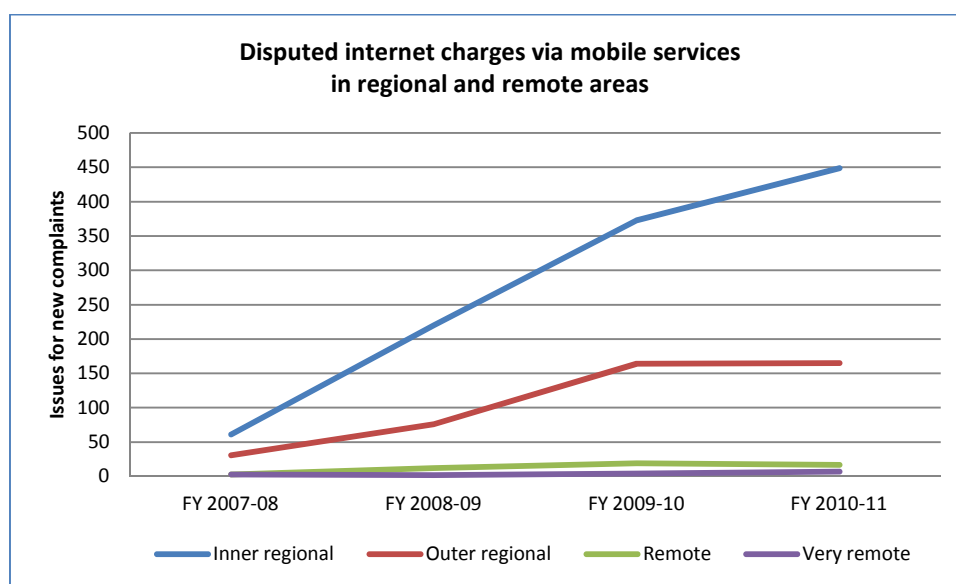
*Q20: How can education and awareness of the risks of using mobile devices such as smartphones be improved for consumers in regional areas?*

As reflected in Graph 11 illustrating the top issues for new complaints about mobile services, billing issues have remained proportionately high over the past few years in regional areas. These issues include disputed internet usage charges via a mobile service. Disputed internet usage charges via a mobile service have been particularly prevalent in inner regional areas, where new complaint numbers have significantly increased.

The TIO is aware that this trend has been evident across Australia. As noted in our [2010-11 Annual Report](#), we have seen a significant growth in new complaints regarding excess internet usage via a mobile service in 2010-11.

The graph below illustrates the new complaints received since 2007-08 regarding disputed internet charges incurred through a mobile service in regional and remote areas.

*Graph 13: Issues about disputed internet charges via a mobile service in regional and remote areas*



The TIO considers that improved industry compliance with the TCP Code may lead to a decrease in the number of complaints received in relation to this issue. Providers need to ensure that consumers are given clear, simple, relevant and accurate information that enables them to make an informed choice about a product or service which may best suit their needs. In addition, it is vital that consumers are informed of how the product or service operates and is charged. For this to occur, a provider's sales and customer service staff must be appropriately trained in order to educate prospective or existing customers.

Given the rise in these types of complaints, the TIO's outreach programmes in regional and remote areas in future will include specific information regarding this issue in order to equip consumers with information on how they can avoid experiencing 'bill shock' when using devices such as smart phones.

## Other Issues

*Q21: Are there any other issues relating to telecommunications services in regional Australia that require consideration?*

### Land Access

We handle complaints regarding land access issues including:

- damage to infrastructure caused by a consumer
- damage to a consumer's property by a provider
- failure of providers to access land with the appropriate notification to the owner or occupier
- where consumers have received notification, but have raised objections to the proposed access.

We can only consider complaints regarding the installation, inspection or maintenance of low impact facilities and, in an exception to our jurisdiction, will consider these complaints not only from residential consumers, but also from local councils, other government entities and all businesses that are the owner or occupier of the land.

The number of new complaints received by the TIO in relation to land access issues is very low in comparison with other issues.

With the wider roll out of the National Broadband Network, we anticipate that land access issues are likely to increase in regional and remote areas. Even where objections may be properly addressed by the carrier, damage to the provider's infrastructure or to a consumer's property in the course of the National Broadband Network implementation may give rise to disputes between the parties.

The TIO is in the process of developing guidelines for both telecommunications providers and land owners and occupiers in order to provide a simple and clear summary of each party's rights and obligations.

### Temporary Cables

In June 2009, the TIO presented a briefing paper to the Australian Communications and Media Authority (ACMA). This paper outlined our concerns about the increasing number of complaints we had received over the previous two years relating to lengthy delays experienced by consumers in having permanent repairs carried out on their services.

We reported to the ACMA that:

*"In many of the complaints before the TIO these cables, while originally intended as a stop gap measure, have been in place for a year or more. Ongoing (or recurring intermittent) faults and safety hazards (due to the placement of the temporary cable) frequently occur as a result of temporary cabling. Loss of internet access is also common."*

Our report specifically noted that for consumers in regional and remote areas, while the installation of a temporary cable may resolve immediate service problems, the lack of expediency in providing a permanent solution resulted in issues such as:

- health and safety concerns about temporary cabling and associated faults. One consumer described the danger to farmhands mustering livestock on motorbikes caused by a temporary cable strung 30 cm off the ground. Other consumers noted that cables at this height (which are not uncommon) were tripping hazards, and incidences of a child coming off a bike and livestock tripping were also reported
- low strung cables were also viewed as preventing burning off in some areas, posing a potential fire hazard. The inability to mow or burn off grass was reported by some consumers as giving rise to concerns about safety due to long grass encouraging and/or hiding snakes
- a number of consumers noted that their services had been rendered fully unworkable on occasion because temporary cabling was at greater risk of damage and in some instances had been struck by lightning, waterlogged in storms and heavy rains, run over by traffic or gnawed through by wombats, kangaroos, dogs, cows, sheep and goats
- financial damage to businesses was also reported. In one case, repeated damage to temporary cabling by a heavy truck having to cross a farm entrance (across which the cable lay) resulted in a farmer needing to move his stock and feed to another area.

Providers had indicated to the TIO that a common factor causing delays were events outside its control, including lack of co-operation from land owners/occupiers and local authorities. However, our investigations did not always conclude that this was indeed a major factor as some responses from providers indicated that the issues raised in these complaints were 'not a business priority'.

As a result of our concerns regarding these issues, Telstra Corporation, as the wholesale provider of these services, wrote to its resellers advising that they should make contact with it directly in order to expedite these complaints.

While the numbers of these types of complaints received by the TIO have subsequently diminished, the TIO considers that as the National Broadband Network is rolled out over the next few years, providers may be reluctant to invest in existing infrastructure in regional and remote areas, leading to a possible resurgence of these complaints<sup>3</sup>.

Case Study 4 in Appendix 1 illustrates some of the issues that we see about temporary cabling.

### **Australian Broadband Guarantee (ABG) and the new Interim satellite service**

We can consider and resolve complaints regarding active Australian Broadband Guarantee (ABG) services in relation to the following issues:

- Contracts and point of sale advice
- Connection and fault repair delays
- Billing and credit management
- Customer service and complaint handling.

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<sup>3</sup> A recent news article suggests that this issue continues to be of concern in some regional or remote areas in Australia: *Farm Weekly*, 8 December 2011, at <http://fw.farmonline.com.au/news/state/agribusiness-and-general/general/its-a-mess/2385180.aspx?src=rss>.

We do not handle complaints about eligibility for ABG services.

Sometimes however, contractual or other issues can impact on a consumer's eligibility for a further subsidised service. Where a resolution to a complaint results in a consumer being released from any contractual obligation with their ABG provider, we provide information to the Department of Broadband, Communication and the Digital Economy (DBCDE) that may assist in its consideration of additional eligibility for a subsidised service for that consumer.

We have also considered complaints where a consumer sought assistance to be released from a contracted service without losing their eligibility to obtain a subsidised service with another ABG provider. While we have played no part in the DBCDE's decisions to allocate subsidies, we understand that consumers were required to obtain written confirmation from their current provider that the service was 'unreliable' if they wished to transfer to another provider and still be eligible for a subsidy. Case Study 5 in Appendix 1 illustrates the difficulties experienced by consumers in relation to obtaining a resolution for these types of complaints.

We understand that as the National Broadband Network is rolled out across Australia, the ABG will be phased out and replaced with interim satellite services. As of 1 July 2011, these services have been launched in areas that were previously underserved by broadband access. The interim satellite services will provide high speed broadband to areas not covered by the fibre and wireless networks.

We are aware that there are already providers supplying interim satellite services as part of the National Broadband Network rollout and we will monitor any complaint issues as they arise.

## Appendix 1 – Case Studies

### Case Study 1

The consumer contacted the TIO in February 2009 claiming that in June 2008 she requested a landline service be connected to her residence on a pastoral station. She claimed that her provider told her to provide a 1.2 km trench for the lead-in cable, and she completed this on 6 July 2008. She claimed that she immediately contacted the provider's contractors and notified them that the trench was completed and ready for the lead-in cabling to be laid.

After various delays the lead-in cable was laid on 3 October 2008, but her provider then discovered that its infrastructure (to which the lead-in cable was to be connected) required a major overhaul.

The consumer claimed that she was offered an interim service in February 2009, but rejected this on the basis that she was told she would have to pay \$299.00 and would be charged higher call rates. She also claimed that the interim service relied on mobile coverage and this was limited in her area. She claimed that her provider connected a wireless service at the premises in September 2009, rendering the trenching she had paid for unnecessary.

The provider responded to the TIO by advising that its first record of the consumer requesting a landline service was on 13 February 2009. The provider made a distinction between the consumer's connection request and the "pre-provisioning" request of 5 June 2008 to install a lead-in cable. The provider advised that it did not consider an initial pre-provisioning enquiry to be a request for a service and it did not maintain records of these enquiries.

The provider assessed the consumer's entitlement to compensation under the Customer Service Guarantee (CSG) Standard for delays in connecting the service. It was of the view that the consumer was only entitled to compensation of \$43.56. It based this assessment on the connection request not being received until 13 February 2009 and the consumer rejecting an offer of an interim service at this time.

In dealing with the complaint, the TIO was satisfied that there was an unexplained delay between the completion of trenching in July 2008 and the eventual completion of the lead-in cabling work on 3 October 2008. It was also unclear why once the lead-in was installed on 3 October 2008 there was no attempt to connect the service to the provider's infrastructure until February 2009.

The TIO was also of the view that the circumstances surrounding the offer of the interim service did not disentitle the customer to compensation under the CSG Standard. Reasons for this included that the request for connection was in July 2008 (when the trenching was completed) and the provider should have offered the consumer an interim telephone service within 20 working days from this date. In addition, the effect of the CSG Standard is that offers of an interim service more than six months after the initial request for a standard telephone service require the specific consent of the consumer, with the knowledge that they will forgo CSG compensation.

The TIO's investigation found that the consumer may be entitled to CSG compensation. This was

calculated having regard to a delay of 262 working days beyond the CSG Standard of 20 working days, with a total CSG entitlement of \$12,438.80. The TIO also found that the provider should reimburse the consumer for the costs associated with the trenching.

The consumer was offered a total amount of \$13,484.24 in compensation, which she accepted.

## Case Study 2

The TIO was contacted on 7 September 2009 by a consumer who advised that they had been experiencing an ongoing, intermittent “no dial tone” fault for six months on their landline service. The consumer claimed that they had reported service difficulties from March 2009 onwards. The consumer also advised that while they had been provided with a Personal Interim Phone Service (PIPS) on one of their pre-paid mobile services, this was insufficient as the household was without a landline service if the mobile service was taken off the premises.

The consumer claimed that although “technicians attended the pit” the problems were not rectified until September 2009. The consumer advised that he accepted an offer to provide PIPS as an interim service in July 2009. However, the consumer claimed that he was not provided with adequate advice, as he found it difficult to understand the representative. The consumer claimed not to have been specifically advised of any interim service alternatives to PIPS at this time and that his provider offered him a non-PIPS interim service on 8 September 2009.

The provider responded by acknowledging that a number of “no dial tone” faults were reported during March 2009 and April 2009, and that these faults were rectified within standard industry timeframes. Further, it claimed to have offered a reasonable interim service on a number of occasions which exempted it from paying compensation for delays in rectifying the subsequent faults. The provider advised that the offer of an interim service was accepted by the consumer on 14 July 2009 after standard scripting was used to explain the available options.

The provider assessed the consumer’s entitlement to compensation under the CSG Standard for a nine (9) working day delay totaling \$266.20. Further, the provider advised it had applied goodwill gestures in the form of credits of \$200.00 to the consumer’s pre-paid mobile account, and \$89.95 to the landline account in lieu of the financial detriment incurred.

The TIO noted that in the fault reports supplied by the provider, it had identified that 85m of cabling was required to be replaced on 30 March 2009. However, the fault was not rectified until 24 September 2009 despite there being six ‘no dial tone’ faults reported between 29 March and 29 July 2009 and the attendance of technicians on each occasion. There was no evidence that the provider had initiated any works in relation to replacing the 85m of cable identified in March 2009. After another fault was reported on 29 July 2009, the provider initiated a project to replace cabling on 12 August 2009.

As regards the interim service, the TIO found that there was no evidence which would have indicated that the consumer was given adequate information about options for an interim service

and that had he been advised of a more suitable interim service that could be used by multiple occupants at the premises, it is likely he would have chosen this option.

The TIO took into consideration the usage on the service over a 10 month period up until the rectification of the fault and found that although there had been usage on the service, this had reduced each quarter. The TIO also took into account the consumer's claim that they had incurred additional costs through increased use of their pre-paid mobile services.

In light of these factors, the TIO found that the provider should pay 50% of the full amount in CSG compensation for the delay in rectifying the fault from 30 March 2009 until 24 September 2009 (124 working days) totaling \$2,916.10, less the compensation already provided.

The provider agreed to a 'customer relations' payment of \$3,000, plus \$100 in credits towards the pre-paid mobile services. The consumer accepted this resolution.

### **Case Study 3**

The TIO's Indigenous Liaison team was contacted by the North Australian Aboriginal Justice Agency (NAAJA) on behalf of the consumer. The consumer was an Indigenous Australian living in a remote community whose only source of income was a disability pension. The TIO was advised that the consumer had limited understanding of commercial transactions outside his community and that he had been contacted by an overseas telemarketer on behalf of an Australian provider. Despite there being no mobile coverage in the consumer's area, he was offered a mobile service under contract.

The TIO was further advised that no terms and conditions were provided in relation to the contract.

While the service could be used when the consumer went to Darwin and the bills were paid, he subsequently threw away the handset believing it did not work. Although the service was then unused, the consumer continued to be direct debited each month causing his account to be overdrawn and dishonor fees to be applied by his financial institution. The service was eventually cancelled and the consumer received a demand for \$1,500.

The TIO was informed that NAAJA had contacted the provider, but was unable to obtain a copy of the verbal contract. After being referred by the TIO, the provider offered to cease the direct debit and waive \$1,200 of the outstanding amount. However, this was conditional upon a payment arrangement being made for the remaining \$349 associated with the early termination fees. Further, the provider refused to cover \$1,157 the consumer had incurred through the dishonor fees.

The TIO escalated the complaint after no response was received in the early stages of the investigation. While the provider did not respond to the TIO's questions relating to whether the consumer had clear information about the product and did not retain records of the "basic details regarding the consumer's consent to the sale..", it agreed to waive all outstanding charges and refund the \$1,157 incurred through the dishonor fees.

#### **Case Study 4**

The TIO was contacted in February 2011 by a consumer about a temporary aerial cable installed across their property. The consumer advised that in October 2010, the provider had accessed their property and installed an aerial cable across it to connect to the neighbouring property. The consumer claimed they did not receive any notification in relation to either accessing the property or the intention to install an aerial cable. The TIO was advised that initially, the cable had been attached to another utility pole at a height of 3m across the driveway, but this was later moved further inside the property and raised to a height of 4m. The consumer advised that the area where the cable was located is used to load and unload trucks on the property and that it was hazardous.

The consumer claimed that he was advised by the provider that the cable was only temporary while an existing underground cable was repaired and so he allowed three to four months for the completion of any required works. However, when this timeframe expired, he was then advised by the provider that the aerial cable was permanent and that it was not required to provide any notice to access the land.

The TIO raised the complaint and was initially advised by the provider that an access notice had been issued, but it was addressed to the former occupant of the property. It also advised that the required works on the neighbouring property had been completed and it was uncertain why the temporary cable was still connected. The provider confirmed that a site inspection would be carried out and it was likely that this cable was no longer required and would be removed.

The provider subsequently informed the TIO that the cable had been removed and apologised for any inconvenience the matter had caused the consumer. The consumer accepted the resolution.

#### **Case Study 5**

The consumer contacted the TIO advising that she had a subsidised broadband service installed with an eligible provider, but the service had never worked. The consumer had been advised by her provider that this was because there were too many trees around the property. Despite this, the provider had charged her \$45 per month.

After a number of complaints to the provider, it agreed to cancel the service and remove the equipment installed in the premises. However, the provider then advised that it would utilise equipment that was installed on a water tower close to her premises.

The consumer advised the TIO that she did not hear from the provider for several months and that she was seeking to have the equipment removed, receive a refund of the amount she had been billed and to ensure that she did not lose her subsidy if she changed to another provider. The TIO was subsequently advised that the provider had promised to refund all amounts and collect the equipment.

The Department of Broadband, Communications and the Digital Economy (DBCDE) contacted the

TIO one year later requesting information on the complaint. After discussing the complaint further with the consumer, the TIO raised the complaint with the provider advising that it appeared to have informed the DBCDE that the problems experienced by the consumer were due to problems with her own equipment and it was therefore not responsible for the service being cancelled. The consumer was therefore unable to obtain another subsidised internet service. The TIO sought to ascertain the underlying cause of the problem with the consumer's service.

After receiving a response from the provider, the TIO considered whether the consumer had indeed stopped "*receiving that service at the premises through circumstances beyond their control*". In reviewing whether this had occurred, the TIO took into account a number of factors including – the lack of evidence of usage on the service; the lack of information in the terms and conditions or point of sale documentation relating to factors that may prevent or hinder coverage; and the lack of evidence relating to the provider's claim that the issues were due to the consumer's own equipment.

The TIO found that there was insufficient evidence to support the provider's claim that the problems with the service were due to circumstances outside its control. The consumer subsequently advised the TIO that the DBCDE had accepted the TIO's findings and had confirmed she would be eligible for another subsidised service.

## Appendix 2 – TIO Complaint Issues

For every new complaint or case the TIO registers, we may record one or more issues to identify the types of issues that are presented in the new complaint. An 'issue' is captured using a three tiered collection of descriptive keywords within our complaint management system which summarises the problems or events at the core of a consumer's complaint.

The TIO receives complaints about a variety of issues. Common issues include:

1. Billing and payments
  - Bills are not received or are delayed
  - Credits or adjustments to the accounts are incorrectly or not applied
  - Direct debits are unauthorised, occur prior to a bill being received or are not cancelled when requested
  - Disputed charges for specific services or the entire bill
  - Disputed charges because the wrong plan has been implemented
  - Payments are not applied or are applied to the wrong account.
2. Complaint handling
  - Not dealing with a complaint, including recording the complaint or escalating the complaint when requested
  - Not advising the consumer about an outcome or not actioning undertakings or promises made to the consumer
  - Not referring the consumer to the TIO where the provider has been unable to resolve the matter directly.
3. Connection
  - Delays for new and in-place service connections where the Customer Service Guarantee (CSG) Standard may apply or where an interim service has not been offered
  - Delays for new and in-place service connections for enhanced call handling features
  - Delays for service connections that are not eligible for CSG compensation
  - Missed appointments where the provider has not attended a set appointment.
4. Contracts
  - Contracting party may have impaired decision making or may not be the actual account holder of the service
  - Point of sale advice including information regarding the product offered and the terms of its use, the available coverage and any early termination fees
  - Variation of terms of the contract without notice
  - Unfair sales conduct or practices.

5. Credit management

- Approving an application for a service without undertaking an assessment to determine that the consumer is in a financial position to afford the service or refusing to supply a service without adequately disclosing the reasons
- Disputed credit defaults where the debt itself is under dispute or where the consumer claims to have received no notification prior to the listing of the default
- Failing to suspend debt collection where the amount is disputed or where a payment arrangement has been negotiated
- Over commitment where high debts have been incurred and the supplier has not provided adequate means of limiting the consumer's exposure to debt
- Payment arrangements where the provider refuses to negotiate or re-negotiate a payment arrangement or fails to record the existence of a payment arrangement.

6. Customer service

- Inadequate assistance where consumers are transferred between departments, calls may be disconnected or being kept on hold for long periods
- Incorrect or inadequate advice
- Not actioning requests made by consumers or failure to promises made to consumers
- Refusing to deal with an advocate nominated by the consumer.

7. Faults

- Delays in the rectification of faults on a CSG eligible service (a landline service) which is fully or partly unusable
- A recurring or intermittent fault that is not permanently rectified
- Delays in rectifying complaints regarding poor coverage or drop outs on non-CSG services such as mobiles
- Equipment faults
- Missed appointments where the provider has not attended a set appointment to repair a fault.

8. Transfers

- Delays in the transfer of a service between providers
- Unauthorised transfers or transfers without consent or authority of the account holder
- Incorrect advice about details of a transfer, including the provider's name, the terms and conditions or any early termination fees
- Not reversing a transfer promptly