



New powers for TIO

Melinda Dundas, Public Affairs Officer, TIO

The new telecommunications regime provides for increased consumer protection for smaller end users through the expansion and strengthening of the role of the Telecommunications Industry Ombudsman (TIO), an office of last resort for unresolved complaints about phone services.

The key effect of the changes, which come into effect on 1 July 1997 as part of the Telecommunications Act 1997 (Act), will be to increase the TIO's jurisdiction over new telecommunications companies. These companies will also be required to join and comply with the TIO scheme. The legislation also gives the TIO an important new role in the development of consumer Codes of Practice.

Expanded jurisdiction

While the TIO currently handles complaints about telecommunications carriers Telstra, Optus and Vodafone, as well as some service providers whose have joined on a voluntary basis, from 1 July all new carriers and eligible carriage service providers must become members of the scheme.

Eligible carriage service providers are defined in the Act as companies providing:

- a standard telephone service to residential and small business customers;
- public mobile services;
- Internet access;

as well as companies reselling the standard telephone service and mobile services.

In practice, the increased jurisdiction from 1 July means up to 550 new members: an estimated additional 75 telecommunications service providers and 475 Internet service providers (ISPs). The TIO has sent registration requirements to service providers by direct mail and made them available to ISPs electronically. However, it is not anticipated that all service providers will register prior to 1 July. Many will only become known to the TIO when it receives an enquiry or complaint about them.

While telecommunications service providers have anticipated their membership obligation for some time, the requirement is expected to have a surprise impact on some ISPs, many of whom have only recently learnt of the obligation to comply with the scheme. Others, however, see the TIO as a constructive presence in a growing sector. All classes of ISPs are required to register be members of the TIO; however, the legislation provides for service providers - including ISPs - to apply to the Australian Communications Authority (ACA) for exemption from this obligation.

Consumer Codes

One of the most important aspects of industry self-regulation is the making of consumer protection codes. A Consumer Code Working Group, comprising representatives from industry and public interest and consumer groups, has developed guidelines for Code development and is currently drafting the first Codes. The TIO is actively involved in this process. The TIO's role in this area is

recognised in the legislative requirement that the ACA may not register a Code unless satisfied that the TIO has been consulted in its development. If industry does not develop a Code, or a particular Code fails, the ACA may determine an Industry Standard. However, it must not make such a determination, vary or revoke it, without consulting the TIO. The legislation also envisages that the TIO will be given powers under relevant Codes or Standards to investigate consumer complaints about breaches of the Code.

New challenges

While all these changes assist in consolidating the role of the TIO, it is the increased coverage of relevant companies supplying telecommunications services and access to the Internet to residential and small business customers which will provide the most tangible benefit to consumers. Importantly, the TIO will maintain its strict focus on consumer, not industry, complaints.

Doubtless the TIO will, like everyone else, have to resolve some of the myriad technical and legal difficulties surrounding Internet services. However, its jurisdiction focuses on the provision or lack of provision of *carriage* services. It will not deal with complaints about the *content* of a telecommunications service.

With annual growth of approximately 50% since its establishment in December 1993, the TIO is confident in its ability to cope effectively with the further rapid growth after July. □