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## **Chapter 5**

Telecommunications  
consumer  
safeguards and  
quality of service

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## Chapter summary

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The number of payphones in operation, whether operated by Telstra or another organisation, fell by 12.8 per cent or 5,786 payphones during 2008–09. There were 39,328 payphones in operation at 30 June 2009 compared with 45,114 at 30 June 2008. In 2008–09, Telstra payphones were unserviceable between five and seven per cent of the time.

The reported number of telephone services covered by the telecommunications Customer Service Guarantee Standard (CSG Standard) decreased by six per cent to 7.5 million services in 2008–09. The performance of the main carriage service providers in meeting CSG Standard time frames for new service connections ranged between 88.3 per cent and 95.9 per cent for 2008–09. During 2008–09, carriage service providers repaired between 90.5 to 93.9 per cent of faults within CSG time frames.

The number of call minutes to the National Relay Service (NRS) decreased by three per cent during 2008–09.

There was a drop in the number of ports made for local and mobile number portability in 2008–09. The volume of local number ports decreased by 7.6 per cent, while mobile number ports decreased by 5.7 per cent. Freephone and local rate number ports increased by 6.2 per cent.

As of 30 June 2009, more than 3.54 million telephone numbers had been listed on the Do Not Call Register since its launch on 3 May 2007, with more than 1.12 million telephone numbers added to the register during 2008–09. Twenty-one investigations were finalised concerning possible breaches of the *Do Not Call Register Act 2006* (the DNCR Act) during 2008–09, resulting in the issuing of seven infringement notices, six formal warnings and the acceptance of eight enforceable undertakings. While telemarketers generally adhere to the requirement not to contact numbers that are listed on the register, five per cent of the businesses complained about are responsible for approximately 70 per cent of the total complaints received. The ACMA's formal investigations are focusing on these businesses.

The Telecommunications Industry Ombudsman (TIO) recorded a 79.2 per cent increase in complaint issues to 481,418 in 2008–09, up from 268,645 in 2007–08. While the increase in complaint issues has occurred across all communication service categories, complaints to the TIO concerning specific service types represented less than one per cent of mobile services, 1.5 per cent of fixed-line services and 1.4 per cent of internet services in operation during 2008–09. Factors such as changing consumer behaviour (i.e. service substitution and take-up of multiple service types), growing consumer expectations, increased awareness of complaint channels and the general increase in service offerings are likely to have contributed to the general increase in complaint levels. It is also likely that the global financial crisis has led to greater scrutiny of bills by consumers.

During 2008–09, the ACMA undertook an assessment of industry compliance with Telecommunication Consumer Protection Code (the TCP). The majority of industry providers examined were assessed as being compliant with provision of the TCP relating to financial hardship, the requirement to publish a complaint handling policy and direct debiting. All equipment suppliers were determined to be compliant with the Accessibility Features Code.

## Universal service obligation

The universal service obligation (USO) is a safeguard for consumers, ensuring that all people in Australia, wherever they live or conduct their business, have reasonable access on an equitable basis to a standard telephone service, payphones and prescribed carriage services. The term USO is defined in section 9 of the *Telecommunication (Consumer Protection and Service Standards) Act 1999* (the TCPSS Act). No carriage services have been prescribed to date.

### USO levies and payments

All telecommunications carriers in Australia are required to make a proportionate contribution based on eligible revenue towards the cost of providing the USO.

The Minister for Broadband, Communications and the Digital Economy determines the amount of the subsidy for supplying the USO, following consideration of advice from the ACMA. In 2008–09, the subsidy was approximately \$145 million, the same as in 2007–08.

**Table 5.1: Key industry statistics**

	2007–08	2008–09
USO subsidy	\$145 million	\$145 million
Number of telephone services covered by the CSG	7.97 million	7.49 million
Number of public payphones	45,114	39,328
Number of calls minutes to the NRS	3,334,112	3,246,700
Volume of local numbers ported	901,007	832,218
Volume of mobile numbers ported	1,427,672	1,346,689
Number of telephone numbers registered on the DNCR	2.42 million	3.54 million
Number of complaints concerning potential breaches of the DNCR Act	28,000	10,644
Number of registered users of SpamMATTERS	294,000	376,240
Number of complaints to the TIO	268,645	481,418

The concept of 'eligible revenue' is used by the ACMA to determine each carrier's contribution to the USO levy. Eligible revenue is the revenue earned by a carrier and its related parties from their operations in the telecommunications industry, less certain deductions. Each carrier's contribution to subsidising the universal service provider is calculated according to its share of the total eligible revenue of all carriers multiplied by the amount of subsidy determined by the Minister. This calculation is also applied to calculate the levy debit applicable to the universal service provider. This levy debit is subtracted from the amount of subsidy determined by the Minister to ensure that the universal service provider also pays its share of the cost of fulfilling the USO.

Telstra, as universal service provider, was assessed by ACMA as being entitled to a net levy credit of \$53,318,487.09 for the 2008–09 claim year.

Table 5.2 sets out the four largest USO liabilities and entitlements for 2008–09 based on eligible revenue for 2007–08. Out of 186 carriers, 41 were assessed as having nil eligible revenue for 2007–08 and were not required to contribute to the costs incurred. The levies for the remaining carriers (other than those listed in Table 5.2) ranged from \$2.71 to \$2,249,384.93.

## Public payphones

Payphone services in Australia are provided as part of the USO to ensure that everyone, no matter where they live or conduct their business, has reasonable access to a payphone. Telstra is the current universal service provider for payphones. The ACMA monitors Telstra's performance and also receives information about the number of payphones supplied or operated on a commercial basis by other providers.

### Numbers of payphones and payphone sites

The total number of payphones (both Telstra-operated and privately operated) in Australia fell by 12.8 per cent (or 5,786 payphones) to 39,328 during 2008–09. This included a net decrease of 6.7 per cent (or 1,494) to 20,683 in the number of Telstra-operated payphones; and a decrease of six per cent (or 1,066) to 16,838 in the number of Telstra-operated payphone sites (some sites have more than one payphone). There was also a decrease of 18.7 per cent (or 4,292) in the number of customer-operated payphones in 2008–09 to 18,645.

At 30 June 2009, 52.6 per cent of payphones were operated by Telstra. The remaining 47.4 per cent were provided by other telecommunications companies, such as TriTel Australia Pty Ltd (the second largest provider of payphones), or other businesses, such as hotels, clubs and convenience stores. TriTel Australia owned and operated 908 payphones in 2008–09, of which 93.9 per cent (853) were located in urban areas.

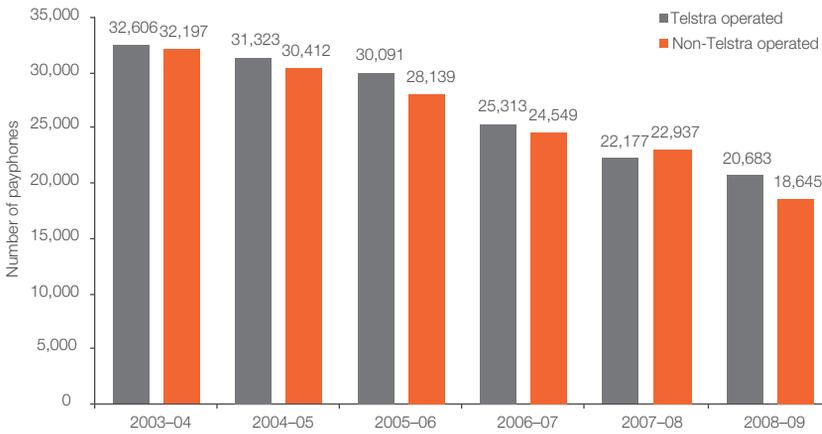
The overall reduction in the number of payphones since 2003–04 is shown in Figure 5.1.

**Table 5.2: Liabilities and entitlements for the four largest participating carriers, 2008–09 (nearest \$)**

	Total cost claims (\$)	Levy debit (\$)	Levy payable (\$)	Levy receivable (\$)
<b>Telstra</b>				
Telstra Corp.	\$145,076,237.00	\$91,757,749.89		\$53,318,487.09
Telstra Multimedia		\$1,655,283.61	\$1,655,283.61	
<b>Optus</b>				
Optus Mobile		\$17,628,668.87	\$17,628,668.87	
Optus Networks		\$10,690,633.80	\$10,690,633.80	
<b>Vodafone</b>				
		\$8,946,451.76	\$8,946,451.76	
<b>Hutchison 3G</b>				
		\$4,085,557.96	\$4,085,557.96	

Source: The ACMA.

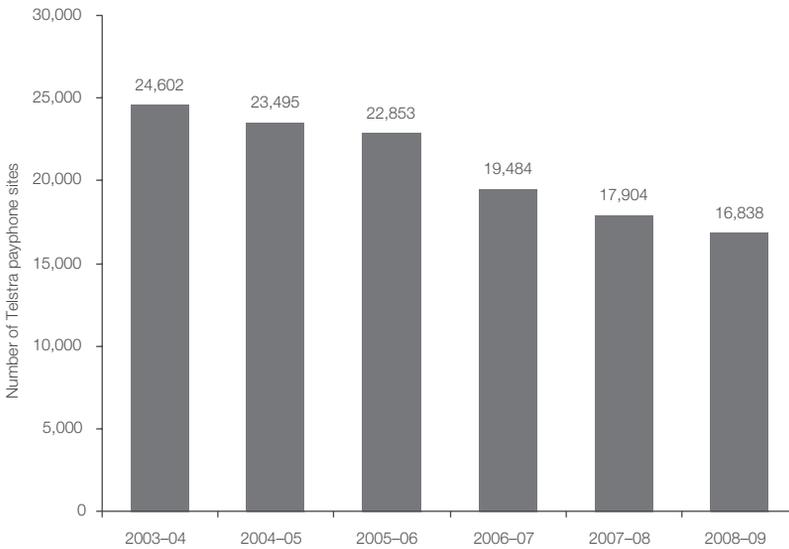
Figure 5.1: Number of payphones in operation, 2003–04 to 2008–09



Source: Telstra and TriTel.

The overall reduction in the number of Telstra’s payphone sites with one or more payphones is shown in Figure 5.2.

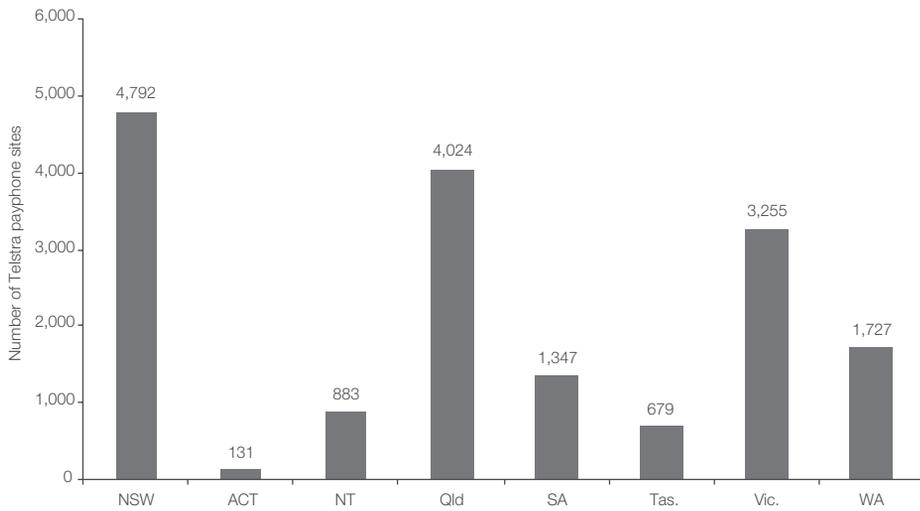
Figure 5.2: Number of Telstra payphone sites, 2003–04 to 2008–09



Source: Telstra.

The number of Telstra payphone sites in each state and territory, as at 30 June 2009, is shown in Figure 5.3. Telstra’s website contains a payphone locator where consumers can find the location of their nearest payphone.

Figure 5.3: Number of Telstra payphone sites in each state and territory, 30 June 2009

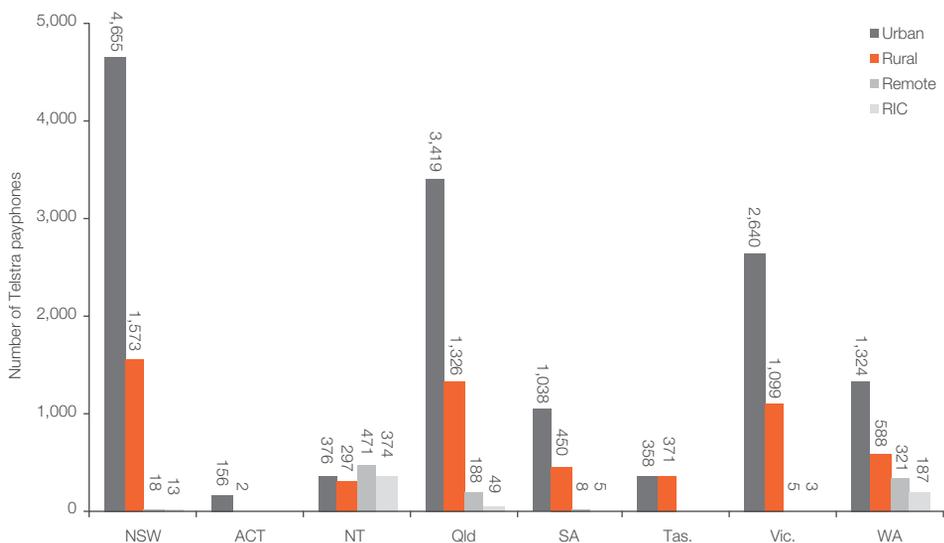


Source: Telstra.

The total distribution of Telstra payphones by geographical category for 2008–09 financial year was urban 13,966; rural 5,706 and remote 1,011 (which includes 631 in remote Indigenous communities). Figure 5.4 shows the distribution of Telstra payphones by geographical category on a state-by-state basis.

In addition to Telstra-operated payphones, there are 14,497 payphones operated by other companies in urban areas, 3,645 in rural areas and 503 in remote areas, with 306 of these in remote Indigenous communities.

Figure 5.4: Distribution of Telstra payphones by geographic category, 2008–09



Note: RIC is a subset of remote.

Source: Telstra.

**Payphone serviceability**

Telstra determines a payphone to be unserviceable if, as a result of a fault, it is not possible to make all types of calls using all payment mechanisms offered at that payphone. In 2008–09, Telstra payphones were unserviceable between five and seven per cent of the time.

**Fault repair performance targets**

Timely repair of payphone faults is an important component of the provision of payphone services under the USO. From notification of a fault, Telstra is required to use ‘reasonable endeavours’ to repair its unworkable payphones, according to the location of service within the following time frames:

- > urban areas—one working day
- > rural areas—two working days
- > remote areas—three working days.

**Telstra’s fault repair performance**

During 2008–09, Telstra’s performance in repairing faults on time was as follows:

- > urban areas—92.5 per cent of repairs were completed on time

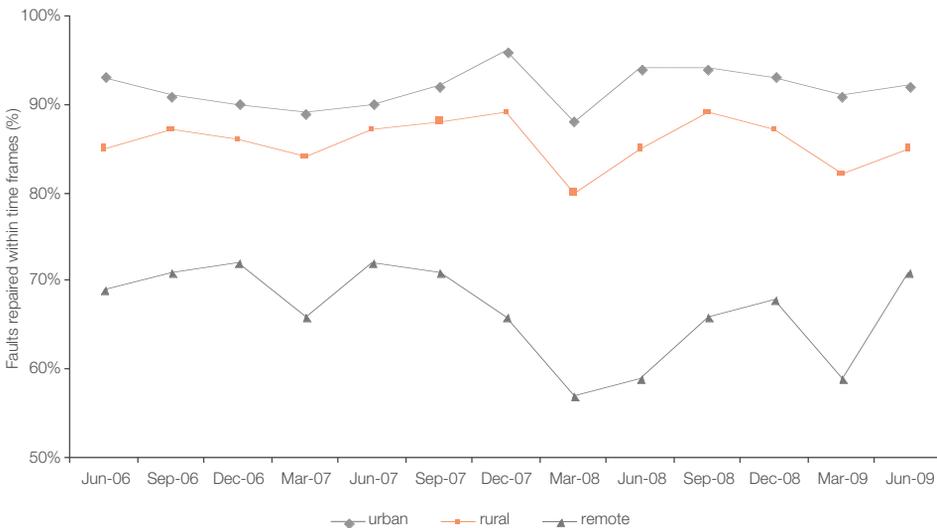
- > rural areas—85.9 per cent of repairs were completed on time
- > remote areas (including remote Indigenous communities)—65.9 per cent of repairs were completed on time
- > remote Indigenous communities—61.1 per cent of repairs were completed on time.

For those repairs not completed on time approximately 60–90 per cent were completed in five working days. Specifically:

- > 89.7 per cent of urban area repairs were completed within five working days of the required time frame
- > 82.9 per cent of rural area repairs were completed within five working days of the required time frame
- > 63.9 per cent of remote area repairs were completed within five working days of the required time frame
- > 61.1 per cent of remote Indigenous community repairs were completed within five working days of the required time frame.

Figure 5.5 shows Telstra’s payphone fault repair performance.

**Figure 5.5: Telstra payphone fault repair quarterly performance—Percentage completed on time, June 2006–June 2009**

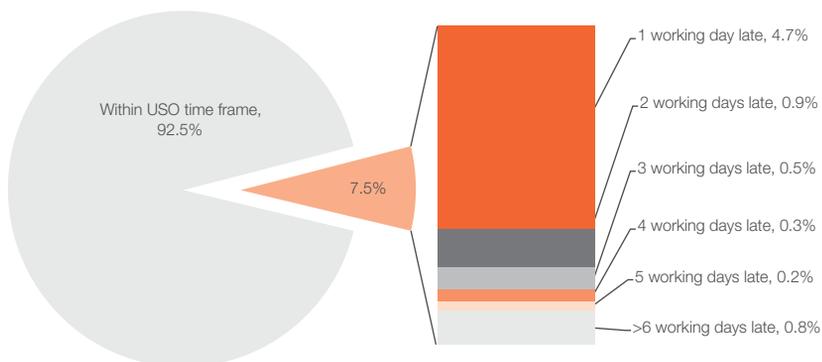


Source: Telstra.

Figures 5.6, 5.7 and 5.8 provide the time frames within which fault repairs were completed for urban, rural and remote services.

### Urban areas

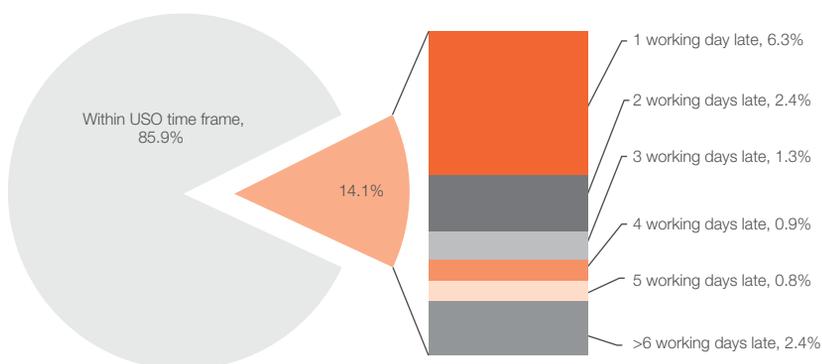
Figure 5.6: Telstra payphone fault repair timeliness in urban areas, 2008–09



Note: Prescribed time frame for repair in urban areas is one working day.  
Source: Telstra.

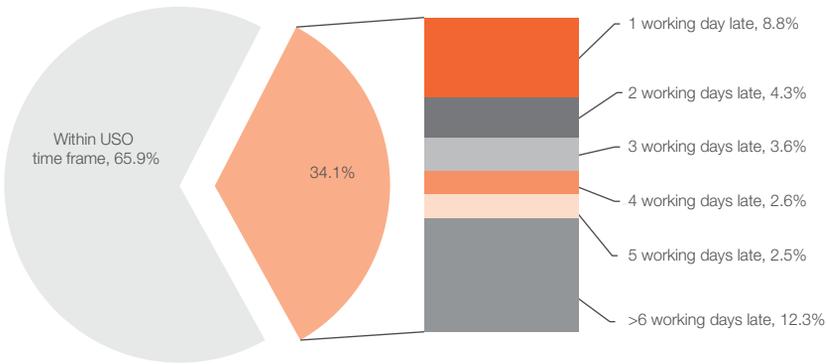
### Rural areas

Figure 5.7: Telstra payphone fault repair performance in rural areas, 2008–09



Note: Prescribed time frame for repair in rural areas is two working days.  
Source: Telstra.

Figure 5.8: Telstra remote area payphone fault repair performance, 2008–09



Note: Prescribed time frame for repair in remote areas is three working days.  
Source: Telstra.

### Installation of payphones

Under the USO, communities or members of the public can apply for installation of a Telstra-operated payphone in a public place. During 2008–09, there were 139 such applications, of which 30 (22 per cent) were accepted.

### Payphones for people with disabilities

The Communications Alliance and the Human Rights and Equal Opportunity Commission developed a guideline on payphone accessibility for people with disabilities. The guideline states that service providers should work with organisations representing people who have a hearing or speech impairment to identify appropriate locations for payphone teletypewriters (TTYs) in metropolitan or regional areas. The guideline further states that priority is to be given to the provision of TTY payphones at locations such as medical, judicial and educational institutions, shopping centres and transport terminals. At 30 June 2009, Telstra had 176 TTY payphones in operation, a decrease of 25 from the previous year.

### Payphone removals

During 2008–09, Telstra removed 1,573 payphones from service after public consultation, including 1,245 in urban areas, 276 in rural areas and 52 in remote areas. After consultation, Telstra also cancelled the proposed removal of 202 payphones, including 50 in urban areas, 130 in rural areas and 22 in remote areas.

### Payphone removal and relocation complaints

The ACMA's role in payphone removal complaints is as an 'office of last resort'. Complaints raised with the ACMA must first have been raised and dealt with by Telstra's complaint-handling processes. The ACMA's role in assessing complaints is to determine whether Telstra has met its obligations as set out in Telstra's Standard Marketing Plan (SMP).

In 2008–09, the ACMA received 21 complaints about payphone removals and none about the relocation of payphones. Based on the information provided, it was found that none of the proposed removals contravened Telstra's SMP.

## Customer Service Guarantee Standard

The Customer Service Guarantee Standard (CSG) sets minimum service standards for carriage service providers (CSPs) installing and repairing standard telephone services for residential and small business customers with five or fewer services. If a CSP fails to meet the minimum performance standards, compensation may be payable to the customer.

Services subject to the CSG Standard represent a significant proportion of all fixed-line standard telephone services in Australia. The ACMA receives information from CSPs that supply the majority of services covered by the CSG Standard. The reported number of telephone services covered by the CSG Standard decreased by six per cent to 7.5 million between 30 June 2008 and 30 June 2009.

**Table 5.3: Customer Service Guarantee service numbers, 2003–04 to 2008–09**

	2003–04 (’000)	2004–05 (’000)	2005–06 (’000)	2006–07 (’000)	2007–08 (’000)	2008–09 (’000)
AAPT	325	541	583	429	331	250
Optus	1,144	1,111	1,129	993	1,035	915
Primus	np	346	220	np	184	np
Telstra	7,281	6,930	6,740	6,313	6,383	6,281
Other	580	375	256	170	36	42
<b>Total</b>	<b>9,330</b>	<b>9,303</b>	<b>8,928</b>	<b>7,905</b>	<b>7,969</b>	<b>7,488</b>

Source: CSP data.  
np: not provided.

Table 5.4 sets out the CSG Standard time frames within which service providers must connect telephone services and complete fault repairs. The CSG Standard time frames vary according to the location of the customer (urban, major rural, minor rural or remote areas) and, in the case of connections, whether infrastructure is readily available.

**Table 5.4: Customer Service Guarantee Standard time frames**

	CSG Standard time frame (working days)			Fault repair
	In place connection	New service connection		
		Close to infrastructure	Not close to infrastructure	
Urban	2	5	20	1
Major rural	2	10	20	2
Minor rural	2	10	20	2
Remote	2	15	20	3

Source: The ACMA.

## Connections

The national performance of the main CSPs in meeting CSG Standard time frames for new service connections ranged between 88.3 per cent (Telstra) and 95.9 per cent (Optus) for 2008–09. Table 5.5 shows CSP performance in 2008–09 in meeting CSG Standard new service connection time frames both in terms of percentage and number of new services.

Table 5.6 sets out the performance of the main CSPs in meeting CSG Standard time frames for in-place service connections. National performance across all areas ranged from 91.4 per cent (Telstra) to 97.4 per cent (Optus) for 2008–09.

**Table 5.5: Customer Service Guarantee—Percentage and number of new service connections provided within CSG Standard time frames, 2008–09**

	<b>AAPT</b>	<b>Optus*</b>	<b>Primus</b>	<b>Telstra</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Urban areas	91.0	95.9	np	88.3
Major rural areas	94.7	na	np	89.6
Minor rural areas	95.3	na	np	88.0
Remote areas	94.1	na	np	84.7
All areas	91.8	95.9	np	88.3
<b>Number</b>				
Urban areas	9,511	197,904	np	372,572
Major rural areas	2,219	na	np	37,187
Minor rural areas	450	na	np	47,284
Remote areas	17	na	np	1,889
All areas	12,197	197,904	np	458,932

\* Optus data covers its own urban network only and excludes reseller activity on other networks.

na: not applicable.

np: not provided.

Source: CSP data.

**Table 5.6: Customer Service Guarantee—Percentage and number of in-place service connections provided within CSG Standard time frames, 2008–09**

	<b>AAPT</b>	<b>Optus*</b>	<b>Primus</b>	<b>Telstra</b>
	<b>%</b>	<b>%</b>	<b>%</b>	<b>%</b>
Urban areas	93.7	97.4	np	91.6
Major rural areas	95.0	na	np	90.8
Minor rural areas	93.3	na	np	90.6
Remote areas	100.0	na	np	90.6
All areas	94.0	97.4	np	91.4
<b>Number</b>				
Urban areas	14,793	9,805	np	609,477
Major rural areas	3,982	na	np	77,237
Minor rural areas	687	na	np	81,281
Remote areas	48	na	np	3,559
All areas	19,510	9,805	np	771,554

\* Optus data covers its own urban network only and excludes reseller activity on other networks.

na: not applicable.

np: not provided.

Source: CSP data.

## Fault repairs

Table 5.7 shows carriage service provider performance in 2008–09 in meeting CSG Standard fault repair time frames both in terms of percentage of faults repaired and the number. Performance across all areas ranged from 90.5 per cent (Telstra) to 93.9 per cent (AAPT).

## Appointments

Telstra made 534,911 CSG Standard-related appointments (see Table 5.8). Of these, 3.2 per cent did not meet the CSG appointment keeping time frames. Optus exceeded the appointment keeping time frames in 6.3 per cent of cases (excluding resale connection activities on behalf of other service providers). AAPT missed 761 appointment keeping time frames and Primus was unable to provide data. Percentage performance figures for AAPT and Primus were also not provided.

**Table 5.7: Customer Service Guarantee—Percentage and number of faults repaired within CSG Standard time frames, 2008–09**

	AAPT	Optus	Primus	Telstra
	%	%	%	%
Urban areas	93.7	90.6	np	90.5
Rural areas	94.9	92.3	np	90.8
Remote areas	92.2	95.8	np	87.5
All areas	93.9	90.6	np	90.5
<b>Number</b>				
Urban areas	51,058	173,308	np	702,541
Rural areas	12,013	784	np	270,633
Remote areas	103	24	np	5,277
All areas	63,174	174,116	np	978,451

*np: not provided.*

*Source: CSP data.*

**Table 5.8: Customer Service Guarantee—Appointment-keeping performance, 2008–09**

	AAPT	Optus	Primus	Telstra
Total number	np	np	np	534,911
Number kept	np	np	np	517,728
Number missed	761	np	np	17,183
Percentage missed	np	6.3	np	3.2

*na: not applicable.*

*np: not provided.*

*Source: CSP data.*

### CSG Standard payments

As a result of missing CSG Standard time frames during 2008–09, Telstra made 181,066 compensation payments totalling \$8.34 million and Optus made 22,000 payments totalling \$1.33 million. AAPT made 7,951 payments totalling \$0.94 million while Primus made 1,690 totalling \$0.21 million.

### Exemptions from the CSG Standard

Under the CSG Standard, a CSP is able to declare an exemption from complying with a performance standard for reasons including circumstances that are beyond the control of the provider, or if there is a need to move staff or equipment to an area affected by circumstances beyond the control of the provider. Many of the exemptions declared relate to extreme weather events or natural disasters.

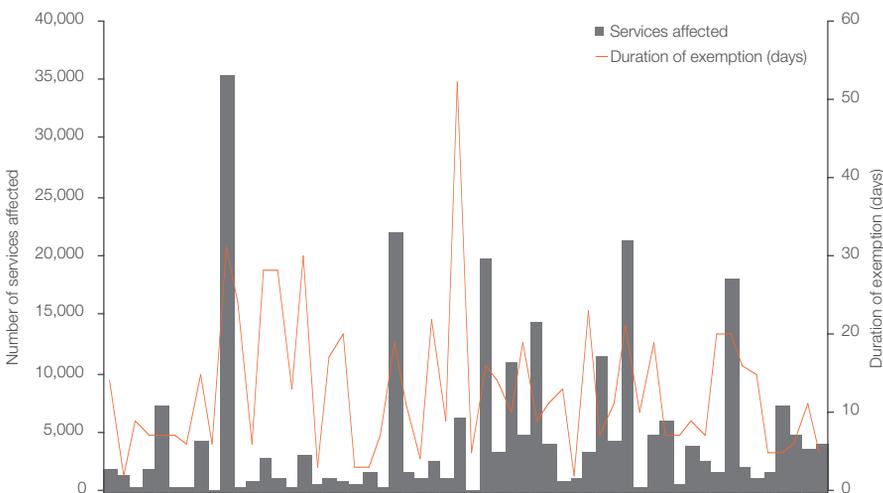
Providers may publicly notify customers of an exemption, but if they do so, they must publish a public notice in a newspaper circulating in the affected area. If an exemption is declared as a result of extreme weather conditions, the public notice must provide evidence that the extreme weather conditions outlined in the notice meet the definitions set out in the CSG Standard.

During 2008–09, Telstra declared 56 exemptions. Of these, 49 were due to extreme weather conditions, four due to natural disasters, two due to damage to telecommunications facilities and one was due to the need to shift resources to an area affected by circumstances beyond the control of the provider. The number of services affected by exemptions ranged from 249 to 35,491, with the average number of services affected being 4,789. The number of days claimed per exemption ranged from two to 52 days, with the average duration being 13 days.

Optus declared 35 exemptions during 2008–09, of which 30 were due to extreme weather conditions, four were due to natural disasters, and one was due to the need to shift resources to an area affected by circumstances beyond the control of the provider. The number of services affected by exemptions ranged from 125 to 10,000, with the average number of services affected being 2,176. The number of days claimed per exemption ranged from two to 39 days, with the average duration being 14 days.

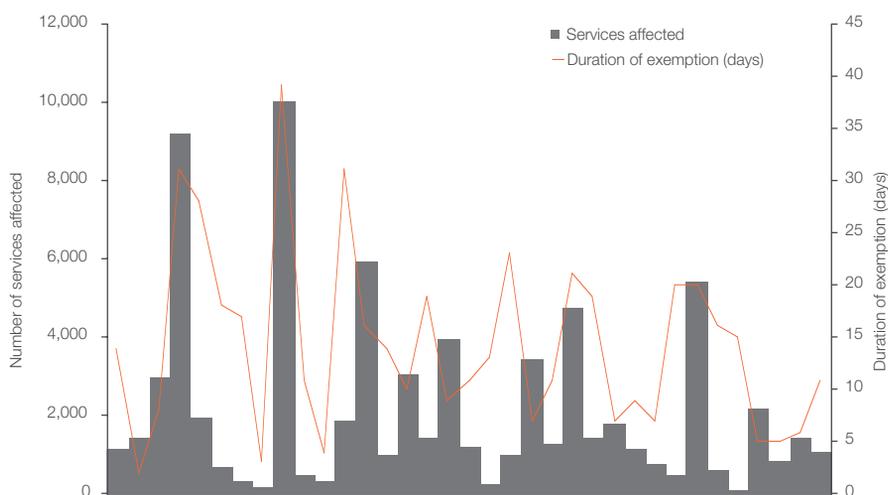
Figures 5.9 and 5.10 shows the number of services affected and the duration of each declared exemption from the CSG Standard for 2008–09.

Figure 5.9: Telstra—Number of services affected and the duration of each declared exemption from the CSG Standard, 2008–09



Source: Telstra.

**Figure 5.10: Optus—Number of services affected and the duration of each declared exemption from the CSG Standard, 2008–09**



Source: Optus.

## Network Reliability Framework

The ACMA monitors the reliability of Telstra's fixed telephone service network under the Network Reliability Framework (NRF). The NRF (as a carrier licence condition) applies only to services Telstra provides to its CSG Standard-eligible customers—residential and small business fixed-line customers with five lines or less. Telstra is required to report to the ACMA on the performance of its network and to fix poorly performing cable runs and individual services.

The NRF monitors performance at the following three levels:

- > Level 1: National and geographical area level, based on Telstra's field service areas (FSA)
- > Level 2: Local level—disaggregated parts of the network known as cable runs
- > Level 3: Individual service level, which includes all Telstra services covered by the CSG Standard.

Level 1 is designed to inform the public about overall network reliability performance. Under Levels 2 and 3, Telstra is required to remediate poorly performing parts of its network.

## Level 1—National and field service area performance

Level 1 of the NRF requires Telstra to publish monthly data showing the reliability of services nationally and in 44 Field Service Areas (FSA) across Australia. Telstra's national Level 1 performance data is presented below. This level of the NRF is designed to inform the public about the reliability of services generally.

The reliability measures under Level 1 are:

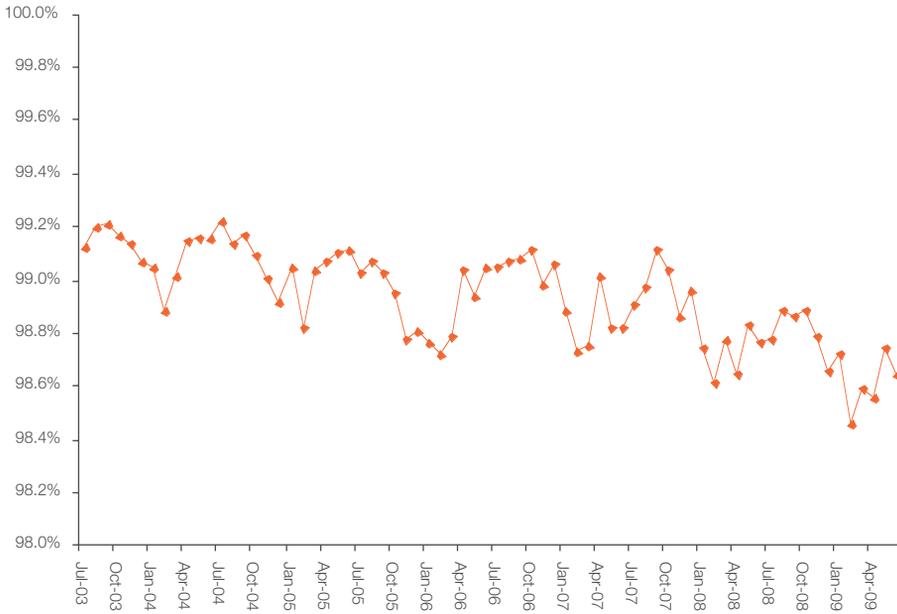
- > Level 1(a)—the percentage of CSG Standard services that did not experience a fault during the month
- > Level 1(b)—the percentage of time in a month that CSG Standard services, on average, are available.

The ACMA also uses data provided under Level 1 of the NRF to calculate:

- > Level 1(c)—the average time (in hours) for fault-affected CSG Standard services to be repaired for the month.

Level 1(a) of the NRF measures the percentage of services that did not have a fault in the reported month.

**Figure 5.11: Level 1(a)—Percentage of total Telstra CSG Standard services that did not experience a fault, 2003–04 to 2008–09**



Source: The ACMA, Telstra.

Performance for Level 1(a) has declined during 2008–09 compared with previous years. While the annual percent is above 98 per cent, small changes in this figure represent relatively large changes in the number of faults occurring on the network. Telstra experienced an increase in field activity during this period due to extreme weather events across various parts Australia. This is also reflected in its CSG Standard performance and its declaration of a number of exemptions from the CSG Standard.

Under Level 1(a), FSAs in urban areas experienced a slightly lower percentage of faults than FSAs covering non-urban areas. On average, 1.18 per cent of services experienced a fault in any given month in urban areas while 1.39 per cent of services in non-urban areas experienced a fault in any given month. As in previous years, CSG Standard services affected by faults in urban areas usually experienced lower average downtime hours than non-urban areas. On average, it took 44 hours and 61 hours to restore fault affected services in urban and non-urban areas respectively.

**Table 5.9: Level 1(a) – Minimum and maximum monthly percentage of Telstra CSG Standard services that did not experience a fault for each FSA for 2008–09**

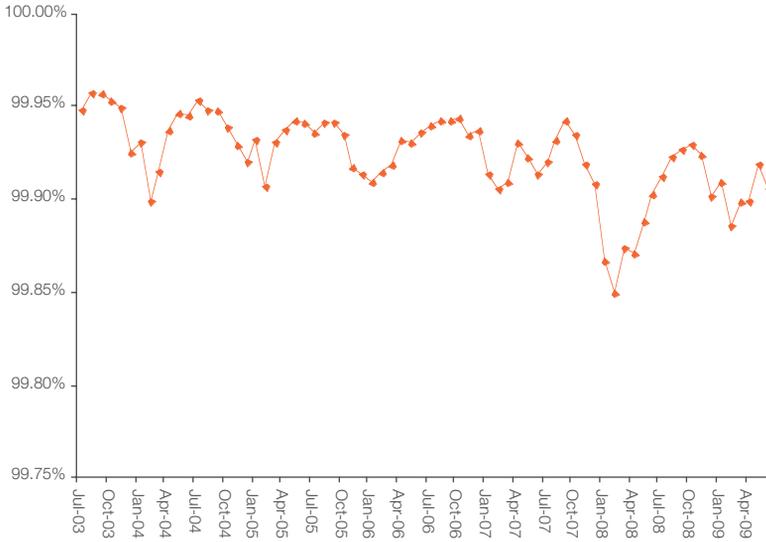
<b>FSA name</b>	<b>Classification</b>	<b>Minimum</b>	<b>Maximum</b>
Adelaide City & Technology	Urban	98.76	99.20
Adelaide Greater Metro	Urban	98.68	99.10
Brisbane City	Urban	97.57	98.67
Brisbane City & Technology	Urban	99.30	99.63
Brisbane Northern	Urban	97.84	98.85
Brisbane Southern	Urban	97.93	98.84
Central Australia	Non-urban	98.78	99.22
Melbourne Bayside	Urban	98.70	99.10
Melbourne Central	Urban	98.84	99.15
Melbourne City & Dedicated Services	Urban	99.32	99.72
Melbourne North	Urban	98.65	99.21
Melbourne Southern	Urban	98.68	99.09
Melbourne West	Urban	98.97	99.29
NSW Central Coast	Non-urban	98.37	99.01
NSW Greater Western	Non-urban	98.16	99.05
NSW Mid Coast	Non-urban	97.38	98.66
NSW New England	Non-urban	97.09	98.74
NSW Newcastle	Non-urban	98.00	98.81
NSW North Coast	Non-urban	97.12	98.87
NSW Riverina Murray	Non-urban	98.61	98.95
NSW South East	Non-urban	97.95	98.68
NT Top End	Non-urban	97.11	98.78
Perth North	Urban	98.94	99.21
Perth South	Urban	98.70	99.17
QLD Central	Non-urban	97.59	98.78
QLD Far North	Non-urban	96.87	98.65
QLD North	Non-urban	96.56	99.02
QLD South West	Non-urban	98.23	99.07
QLD Wide Bay	Non-urban	98.31	98.92
SA Country South	Non-urban	99.01	99.31
Sydney Canberra	Urban	98.95	99.32
Sydney Central	Urban	98.20	98.70
Sydney City & Technology	Urban	99.20	99.54
Sydney Eastern	Urban	98.53	99.02
Sydney North	Urban	98.54	99.02
Sydney Southern	Urban	98.42	98.92
Sydney West	Urban	98.13	98.84
Tasmania	Non-urban	98.65	99.16
VIC Central	Non-urban	98.65	99.01
VIC South East	Non-urban	97.94	98.69
VIC Western	Non-urban	98.52	99.14
WA Midlands	Non-urban	97.82	98.73
WA Northern	Non-urban	97.52	98.77
WA Southern	Non-urban	98.16	98.82

Source: Telstra.

Level 1(b) measures the percentage of time in a month that services (on average) are available. A service is considered to be available if it is not awaiting repair. The performance is calculated based on the total amount of time associated with fault repairs and then averaged across all services, whether or not they had a fault in the month.

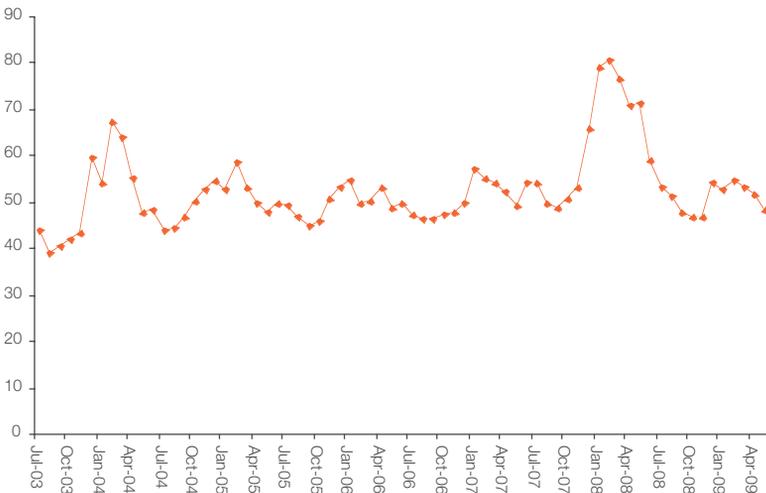
Level 1(c) measures the average number of hours taken by Telstra to restore fault-affected services in the month. While Level 1(b) takes into account all services, Level 1(c) only considers services that experience a fault.

**Figure 5.12: Level 1(b)—Average percentage of time Telstra CSG Standard services were available, 2003–04 to 2008–09, based on monthly reports**



Source: The ACMA, Telstra.

**Figure 5.13: Level 1(c)—Average time (in hours) for Telstra to restore fault-affected services, 2003–04 to 2008–09**



Source: The ACMA, Telstra.

## Level 2—Local cable run remediations

Level 2 of the NRF requires Telstra to report on and undertake remediation work on the 40 lowest performing cable runs (a set of 10 or 100 copper wire pairs within a physical cable sheath) each month, to meet minimum quotas based on the number of operational CSG services on the cable run.

Telstra reported it had completed remediation and monitoring of 497 cable runs in 2008–09. Telstra also remediated an additional 58 cable runs associated with the reported cable runs, where it made operational sense to do so. This is fewer than 2007–08 when Telstra remediated an additional 328 cable runs.

Telstra is required to remediate each reported cable run within six months, but may apply to the ACMA for an extended remediation period in certain circumstances. During 2008–09, Telstra applied for extensions of time on 38 cable runs and 21 applications were approved.

Following remediation, cable runs are assessed over a six-month period against a criterion of a 90 per cent reduction in the volume of network events. Failure to achieve this criterion may result in further remediation and assessment. Telstra achieved the 90 per cent reduction on over 98 per cent of the cable runs that had been assessed during 2008–09.

Telstra was required to conduct further remediation work on six of the cable runs that did not meet the reduction target, while the ACMA waived the requirement for Telstra to conduct further remediation work for the remaining two cable runs that did not meet the target.

## Level 3—Individual service performance

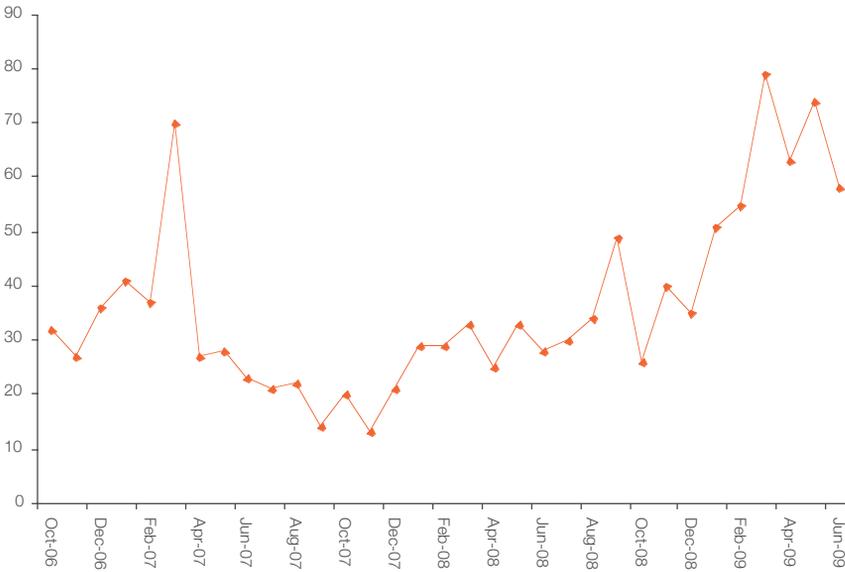
Telstra is required to take action to prevent an individual CSG Standard-eligible service from experiencing more than:

- > three or more faults in a rolling 60-day period, or
- > four or more faults in a rolling 365-day period.

Telstra is required to report to the ACMA any services that breach these thresholds, investigate the performance of the service and undertake necessary remediation.

Figure 5.14 over shows the number of services experiencing four or more faults in a rolling 60-day period may vary widely from month to month.

**Figure 5.14: Level 3(a)—Number of Telstra CSG Standard services with four or more faults in a rolling 60-day period, October 2006 to June 2009**

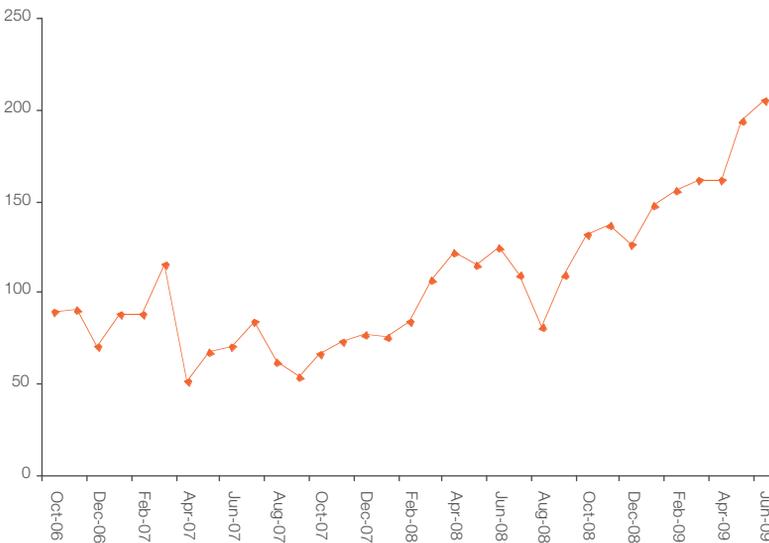


Source: The ACMA.

Note: Due to changes to the reporting arrangements for level three data from October 2006, only data from this point is being used for analysis.

Telstra has reported an increase in the number of services experiencing breaches of the 60-day threshold, reporting 49 breaches per month on average in 2008–09 and a total of 594 for the year. This compared with an average of 24 breaches per month and a total of 288 in 2007–08.

**Figure 5.15: Level 3(b)—Number of Telstra CSG Standard services with five or more faults in a rolling 365-day period, October 2006 to June 2009**



Note: Due to changes to the reporting arrangements for level three data from October 2006 only data from this point is being used for analysis.

Source: The ACMA.

Telstra has also reported an increase in the number of services experiencing breaches of the 365-day threshold, reporting 144 breaches per month on average and a total of 1,724 for 2008–09. This was an increase on 2007–08, where Telstra reported 87 breaches per month on average and a total of 1,049 breaches for the year.

Telstra is required to remediate any service that breaches the fault thresholds and to then monitor that service for an eight month period. If a service experiences a fault during the monitoring period (known as a monitoring period fault), Telstra must report this to the ACMA along with an assessment as to whether the fault is related or unrelated to the original faults that caused the contravention. In 2007–08, Telstra reported 261 monitoring period faults and assessed seven faults as related to the original contravention. In 2008–09, Telstra reported 377 monitoring period faults (322 individual services) and assessed 13 faults as related to the original contravention.

Each service reported under Level 3 is required to undergo remediation. Telstra is required to report to the ACMA on the expected date for completion of the remediation. It is also required to report on a quarterly basis any services where remediation has not been completed within agreed time frames. In 2007–08, Telstra reported 225 services where remediation was not completed within agreed time frames, with an average delay to remediation of approximately 67 days. In 2008–09, Telstra reported 425 services where remediation was not completed within agreed time frames, with an average delay to remediation of approximately 103 days.

## Priority assistance

Priority assistance is the priority telephone connection and repair service for people with a diagnosed life-threatening medical condition who are at risk of suffering a rapid and life-threatening deterioration in their condition. Telstra is required to offer the service as a requirement of its licence conditions, while the CSPs AAPT and Primus voluntarily offer priority assistance services in line with the industry code, ACIF C609:2007 *Priority Assistance for Life Threatening Medical Conditions*. The number of priority assistance customers is presented in Table 5.10.

Priority assistance customers are given faster connection and fault repair of their fixed-line telephone service. A service must be connected or a fault repaired within 24 hours in urban and rural areas (an area with a population greater than or equal to 200 people) or 48 hours in remote areas (areas with a population of fewer than 200 people).

Tables 5.11 and 5.12 provide information about the performance of Telstra, AAPT and Primus in meeting priority assistance time frames for connections and fault repair.

**Table 5.10: Number of priority assistance customers, 2006–09**

	2006	2007	2008	2009
Telstra	169,877	188,802	163,292	195,173
AAPT	989	3,104	4,834	1,901
Primus	2,120	2,026	1,690	1,515

Source: Telstra, AAPT, Primus.

Table 5.11: Priority assistance—Connection requests, 2005–06 to 2008–09

	2005–06		2006–07		2007–08		2008–09	
	No.	% completed on time						
<b>Telstra</b>								
National	78,210	95	76,324	93	74,360	91	51,971	88
Urban	57,220	96	55,682	94	53,320	91	37,592	88
Rural	20,391	93	20,001	92	20,503	90	13,963	88
Remote	599	89	641	91	537	85	416	85
<b>Primus</b>								
National	723	55	668	np	952	np	153	np
Urban	707	55	662	np	739	np	149	np
Rural	16	63	6	np	210	np	4	np
Remote	0	n/a	0	np	3	np	0	np
<b>AAPT</b>								
National	273	76	272	83	437	86	269	94
Urban	184	75	181	84	317	87	197	94
Rural	89	78	79	82	113	84	70	91
Remote	0	n/a	12	79	7	71	2	100

np: not provided.

Source: The ACMA, based on CSP data.

Table 5.12: Priority assistance—Fault restoration requests, 2005–06 to 2008–09

	2005–06		2006–07		2007–08		2008–09	
	No.	% completed on time						
<b>Telstra</b>								
National	149,742	94	105,446	93	118,758	90	116,158	93
Urban	101,433	96	71,236	94	81,402	91	80,433	94
Rural	47,333	92	33,526	91	36,572	87	35,110	90
Remote	976	90	684	88	784	83	615	86
<b>Primus</b>								
National	1,717	np	1,012	np	960	np	876	np
Urban	np	np	np	np	np	np	np	np
Rural	np	np	np	np	np	np	np	np
Remote	np	np	np	np	np	np	np	np
<b>AAPT</b>								
National	2,831	78	1,168	79	671	88	871	96
Urban	1,803	81	790	81	503	90	647	96
Rural	1,018	72	362	74	159	86	198	95
Remote	10	90	16	79	9	70	26	84

np: not provided.

Source: The ACMA, based on CSP data.

## Telstra's local presence plan

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As part of its licence conditions—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 2 of 2005)—Telstra is required to maintain a local presence in regional, rural and remote Australia, to the extent that this is broadly compatible with its overall commercial interests. The local presence plan must set out the range of activities and strategies that Telstra will deploy in regional, rural and remote Australia to fulfil its obligation.

On 29 June 2009, the ACMA received notification from the Minister for Broadband, Communications and the Digital Economy that Telstra's 2009 local presence plan had been approved. The 2009 local presence plan replaces the 2006 plan and is effective for three years, until June 2012.

Under its licence conditions, Telstra must report annually on the progress of its local presence plan and has submitted a report setting out how it has met the requirements of this carrier licence condition.

## National Relay Service

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The National Relay Service (NRS) provides people who are deaf or who have a hearing and/or speech impairment with access to a standard telephone service on terms, and in circumstances, that are comparable to the access other Australians have to a standard telephone service. The NRS legislative obligations are outlined in Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

The NRS provides communication services that enable:

- > a person with a speech impairment to speak to another person, with the relay officer repeating any part of the message that has not been understood
- > a person who cannot hear or use their voice to communicate in text, using a teletypewriter (TTY) or the internet relay service, with the relay officer reading the message to the other party and typing the responses back to the caller

- > a person with a speech impairment to listen to a phone conversation and type their responses for the relay officer to read to the other party
- > a person with a hearing impairment to communicate by voice, with the operator typing the spoken response
- > access to a text emergency service with a TTY via the number 106.

There is also an outreach component to raise awareness of the NRS, which also offers training and support to new and existing users.

### Use of the NRS

The NRS is provided under contract to the Australian Government. Australian Communication Exchange Limited (ACE) provides the relay service component. WestWood Spice (WWS) provides the outreach service, which delivers information, support and training to users and potential users of the NRS service.

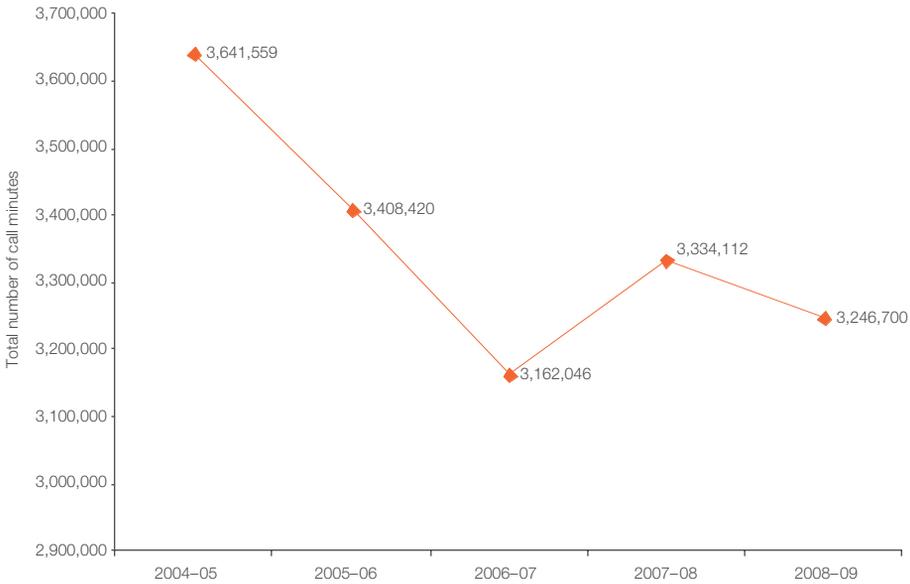
Use of the NRS is measured by the number of call minutes relayed each year. Figure 5.16 shows that there has been a trend of declining usage in recent years with the exception of 2007–08, which showed an increase of 5.7 per cent.

Total call minutes relayed in 2008–09 decreased by three per cent to a total of 3,246,700, compared with 3,343,112 in 2007–08. Internet relay call minutes accounted for 27.5 per cent of total call minutes relayed during 2008–09 compared with 20 per cent during 2007–08.<sup>1</sup> While this indicates an increase in annual usage of internet relay, monthly statistics indicate that the percentage of internet relay calls as a proportion of outbound call minutes has stabilised.

Future trends in use are uncertain, especially given the variability in usage in recent years. However, one of the target markets for the NRS is the older, acquired hearing impairment group, which is a growing demographic. This group is the subject of an ongoing awareness campaign to educate older Australians on the benefits of using the NRS. This campaign also aims to educate the community of potential NRS users through a targeted marketing campaign and information session.

1 The internet relay service was introduced in September 2007.

Figure 5.16: NRS call minutes



Source: ACE.

### NRS levy

The NRS is funded by a quarterly levy on eligible telecommunications carriers. Payment of the levy is restricted to carriers that have eligible revenue of \$10 million or more in the most recent eligible revenue assessment made before the start of each quarter. The ACMA collects the NRS levy on behalf of the Australian Government.

In 2008-09, the cost of providing the NRS was \$16.6 million (including GST and subject to final reconciliation of the March and June 2009 quarters), an increase of more than three per cent on the cost in 2007-08. The increase reflects the applicable cost price index provision in calculating the annual cost of the relay service component.

### Number portability

The capacity to port telephone numbers facilitates competition by allowing consumers to change CSPs without changing their telephone number. Industry participants may develop more competitive service offerings to attract new subscribers from their competitors. While porting volumes can be indicative of the level of competition within the industry, they may also be the result of other factors, such as the closure of a network or specific services, or a provider ceasing trading. However, low volumes of ports do not necessarily mean that competitive benefits are not being realised. Consumers also benefit if CSPs offer improved services in order to retain customers.

Number portability is available on the following services:

- > local numbers (from 1 January 1998)
- > freephone and local rate numbers (from 16 November 2000)
- > mobile numbers (from 25 September 2001).

### Local number portability

During 2008–09, the total volume of local numbers ported was 832,218, an average of 69,351 per month. This was a 7.6 per cent decrease over the 901,007 local numbers ported in 2007–08, but is still significantly higher than in previous years (see Figure 5.17).

### Freephone and local rate number portability

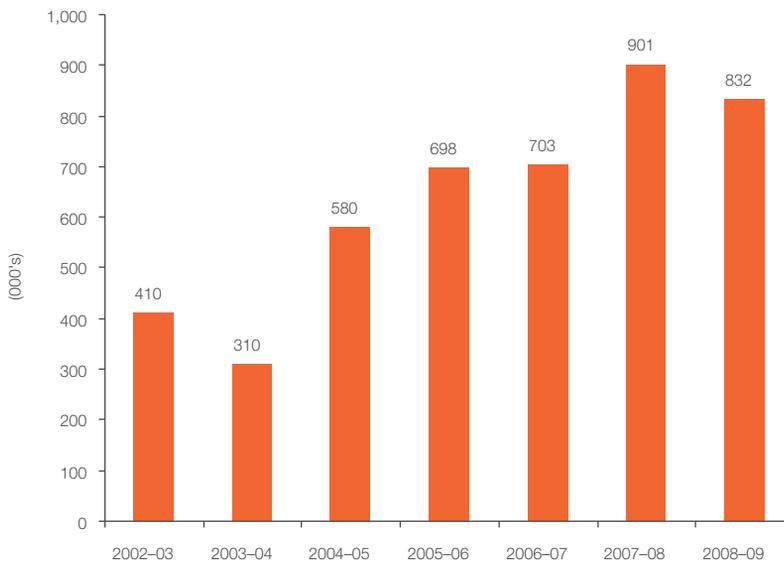
Freephone and local rate numbers (FLRNs) are used by organisations to market their businesses using a number which is memorable, for example, a **smartnumber**<sup>®</sup> such as 13TAXI). They are also numbers that may be called at little or no cost; for example, 1800 062 058 for the Telecommunication Industry Ombudsman or 13 28 61 for the Australian Tax Office.

Industry Number Management Services Pty Ltd has been delegated the management of FLRNs on the ACMA's behalf, including their allocation and surrender.

There were 10,792 FLRNs ported during 2008–09, a 6.3 per cent increase on the 10,157 ports in 2007–08. This represents reasonably consistent market levels since the peak of 2005–06 (see Figure 5.18).

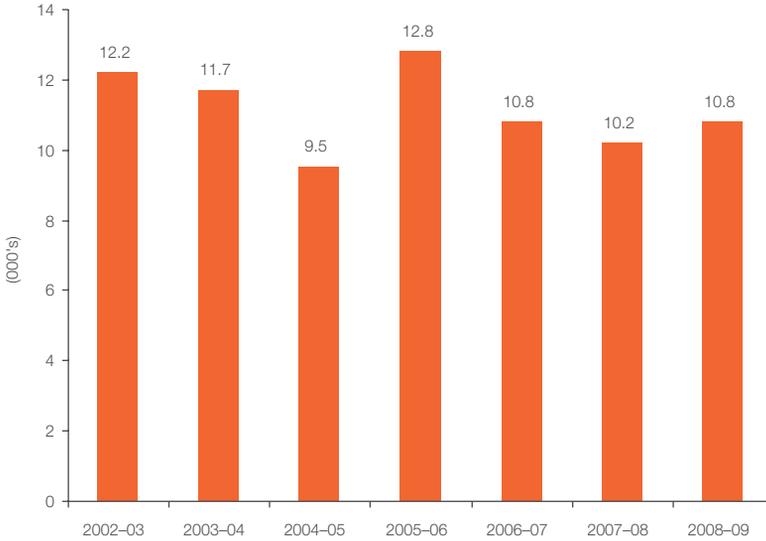
Since portability for FLRNs was introduced in November 2000, a total of 92,083 services have been ported to 30 June 2009.

Figure 5.17: Local number ports, 2002–03 to 2008–09



Source: The ACMA.

Figure 5.18: Freephone and local rate number ports, 2002–03 to 2008–09



Source: Industry Number Management Services Pty Ltd.

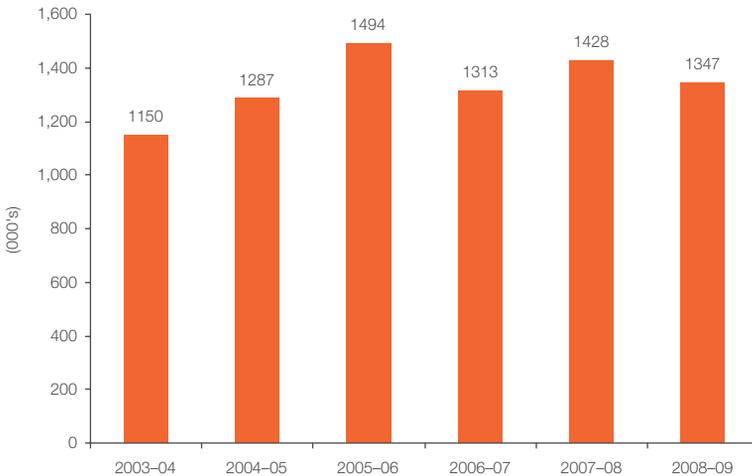
### Mobile number portability

Mobile number portability in Australia enables consumers to port their mobile number from one provider to another, usually within two hours. However, transaction delays by one industry participant may adversely affect overall industry performance.

During 2008–09, there were 1,346,689 mobile numbers ported—a decrease of 5.7 per cent over the previous year’s total of 1,427,672.<sup>2</sup>

Of the total ports, 1,265,497 were inter-network ports and 81,192 intra-network ports. Intra-network ports include those occurring in the same network between different service providers, for example, between resellers on the same network.

Figure 5.19: Mobile number ports, 2003–04 to 2008–09



Source: The ACMA.

2 The total MNP figure that was stated in the 2007–08 report has now been corrected following further analysis of the data.

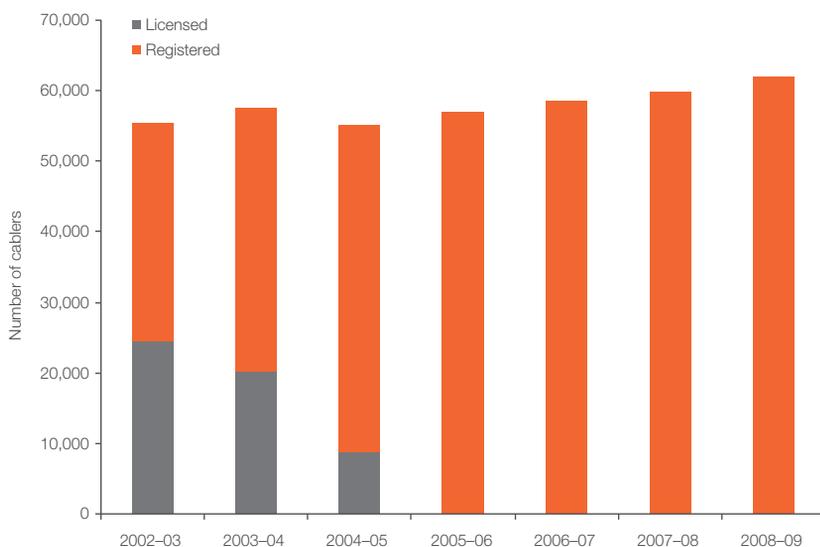
## Cabling regulation

### Registered cablers

All individual cablers who perform customer cabling work that is connected to the telecommunications network or is intended for use on the customer side of the network boundary must be registered with an ACMA-accredited registrar.

On 30 June 2009, there were 61,904 registered cablers. Figure 5.20 shows that the total number of registered customer cablers in the industry has increased marginally each year since 30 June 2005.

Figure 5.20: Total number of licensed/registered cablers, 30 June 2003 to 30 June 2009



Source: The ACMA.

In 2008–09, there were five ACMA-accredited registrars providing registration and other associated services to cablers. Registrars offered three types of cabler registration during 2008–09:

- > Open—covering all types of residential and commercial cabling work
- > Restricted—covering a restricted range of cabling work typically conducted in residential and small business settings
- > Lift—covering telecommunications cabling for lift installations.

Before being granted registration, cablers must meet the ACMA's competency requirements that address health, safety and network integrity issues.

### Enforcing compliance with cabling regulatory requirements

The ACMA is responsible for investigating complaints about non-compliant cabling work or work performed by unregistered cablers. Where appropriate, the ACMA conducts investigations and inspections of cabling work arising from these complaints.

During 2008–09, the ACMA received a total of 24 cabling-related complaints which resulted in 12 cabling inspections. Of these, two resulted in investigations into compliance with the Cabling Provider Rules, and 12 enquiries into alleged unregistered cablers. As a result, the ACMA issued one advice notice and six warning notices under the *Telecommunications Act 1997*.

There were no telecommunications infringement notices issued in this reporting year.

## Do Not Call Register

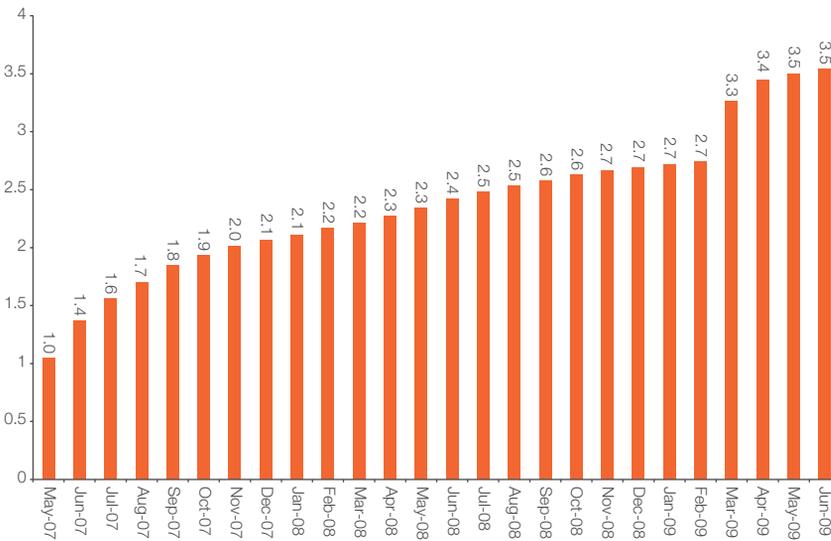
The *Do Not Call Register Act 2006* (DNCR Act) creates a general prohibition on making unsolicited commercial telemarketing calls to a number listed on the Do Not Call Register (DNCR).

The DNCR Act requires the ACMA to keep the DNCR or to arrange for another person to keep it. The DNCR allows individuals to list their home and mobile telephone numbers for no charge in order to not receive unsolicited telemarketing calls.

Telephone numbers can be registered if they are primarily used for private or domestic purposes. Individuals can list numbers through the [www.donotcall.gov.au](http://www.donotcall.gov.au) website, by post and by telephone.

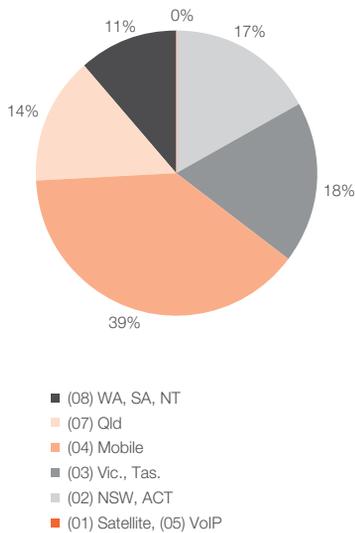
More than 1.12 million telephone numbers were added to the DNCR in 2008–09. By 30 June 2009, a total of 3.54 million telephone numbers had been registered.

Figure 5.21: DNCR cumulative registrations (millions), 3 May 2007 to 30 June 2009



Source: Register Operator (Service Stream Solution Pty Ltd) reports to ACMA.

**Figure 5.22: Total registrations on the Do Not Call Register by two-digit prefix, 30 June 2009**

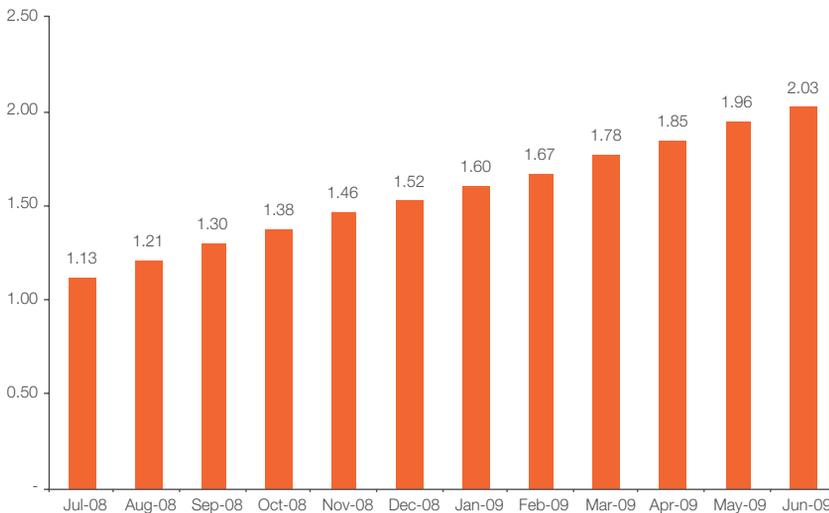


Source: Register Operator (Service Stream Solution Pty Ltd) reports to the ACMA.

The DNCR Act creates a general prohibition on making unsolicited telemarketing calls to a number listed on the DNCR. There are limited exemptions to enable certain public interest organisations to call registered numbers. Exceptions also apply where the account-holder of a number on the DNCR has expressly consented to the call or where consent can be reasonably inferred.

To avoid breaching the DNCR Act, telemarketers and businesses that make telemarketing calls are able to submit their telephone calling lists to the Register Operator for checking against the DNCR. By 30 June 2009, 3,705 telemarketers were registered to check telephone numbers and nearly 2.03 billion telephone numbers had been submitted for checking, or 'washing', against the DNCR.

**Figure 5.23: Cumulative numbers submitted for checking against the DNCR (billions), 1 July 2008 to 30 June 2009**



Source: Register Operator (Service Stream Solution Pty Ltd) reports to the ACMA.

## Ineligible business numbers on the DNCR

Numbers can only be listed on the DNCR if they are used primarily for private or domestic purposes.

Since the launch of the DNCR, the ACMA has received and assessed telemarketing industry complaints that 'ineligible' numbers have been added to the DNCR. Up to 31 January 2008, of the numbers assessed by the ACMA arising from these complaints, 73 per cent were found to be eligible to remain on the DNCR, with the remainder assessed as ineligible and subsequently removed from the DNCR.

In February 2008, the ACMA developed a policy to improve the efficiency of the ACMA's assessment of these complaints. This policy requires submitters to provide supporting information to substantiate their claims that a number is ineligible to be listed on the DNCR. Between February 2008 and 30 June 2009, the ACMA did not receive any complaints that had sufficient supporting information to enable a formal assessment of the complaint.

## Proposed expansion of the DNCR

On 12 May 2009, the Government announced that it intends to expand the DNCR to allow all Australian telephone and fax numbers, including business and emergency service numbers, to be listed on the DNCR. The ACMA will be responsible for implementing the operational changes to the DNCR if the proposed amendments are enacted.

## Telemarketing investigations

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The DNCR Act prohibits unsolicited telemarketing calls from being made to numbers on the register, subject to limited exemptions. If consumers receive telemarketing calls after they have listed their number on the DNCR, they can lodge a complaint online, by telephone or by post. Where a complaint raises a potential breach of the DNCR Act and/or the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard, the Register Operator forwards the complaint to the ACMA for action.

## Complaints received 2008–09

During 2008–09, a total of 10,644 complaints were received. Of these, 9,036 raised potential breaches of the DNCR Act and/or the industry standard and were handled by the ACMA. The remaining 1,608 were handled by the Register Operator.

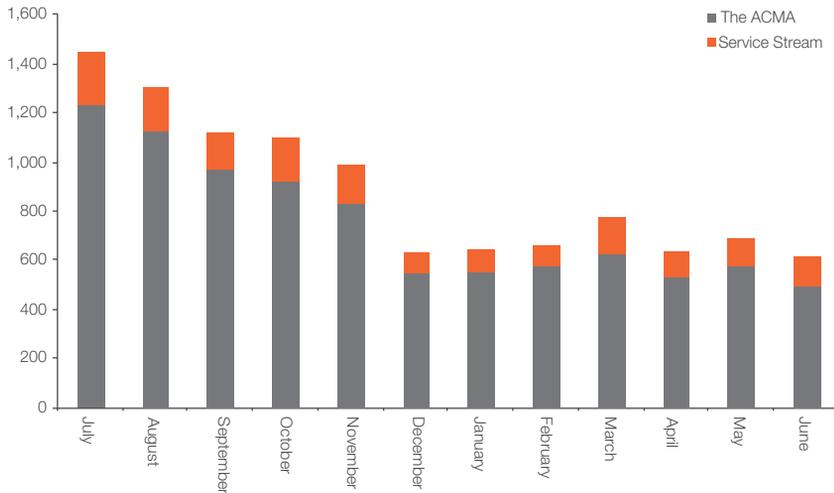
Figure 5.24 shows complaints received each month in 2008–09.

The most significant source of complaints was the telecommunications sector, which accounted for 51 per cent of the complaints received by the ACMA, although this was a decrease on the 55 per cent recorded during 2007–08. Figure 5.25 shows the breakdown of complaints by business type, where the consumer was able to identify the business that called them.

Overall, industry compliance with the DNCR Act and industry standard has been positive. The ACMA's view is that complaints are largely driven by systemic non-compliance within a relatively small section of the industry. The ACMA estimates that five per cent of the businesses complained about are responsible for around 70 per cent of the total complaints received. The ACMA's formal investigations are focusing on these businesses.

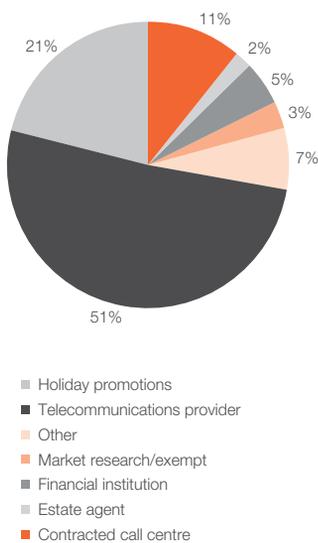
During 2008–09, 89.9 per cent of complaints referred to the ACMA were handled within seven days, 96.1 per cent within 14 days, and 97.9 per cent within 21 days. This performance exceeded the ACMA's target complaint-handling timeframes for the period, which were that 50 per cent of complaints would be handled within seven days, 75 per cent within 14 days and 90 per cent within 21 days.

Figure 5.24: Complaints received by month, 2008–09



Source: The ACMA.

Figure 5.25: Complaints by business type, 2008–09



Source: The ACMA.

### Compliance education

Since the DNCR took effect in May 2007, the ACMA has taken measures to ensure that members of the telemarketing industry have access to clear and comprehensive information about their rights and obligations under the DNCR legislation. Measures undertaken during 2008–09 included:

- > Maintenance, on the ACMA and DNCR websites, topic-specific information sheets, brochures, Q&As and other educational material tailored to both consumer and industry audiences.
- > Quarterly publication of an industry newsletter, *Making the right call*, to provide telemarketers with up-to-date information about compliance trends, compliance strategies, investigation outcomes and other relevant matters.
- > Publication of the *Do Not Call Register Act 2006 Compliance guide* to provide telemarketers with practical advice about measures they can take if they wish to aim for best practice compliance with the DNCR Act. The guide was developed by the ACMA in consultation with the telemarketing industry.

## The ACMA's approach to compliance

The ACMA's general approach to compliance during 2008–09 was to resolve matters informally, where appropriate, without using its formal powers. Where complaints were received from consumers, the ACMA issued an advisory or warning letter to the relevant business, providing it with an opportunity to review its compliance processes and address any issues.

However, where this informal approach was unsuccessful or inappropriate, the ACMA undertook investigatory and enforcement action. In implementing its procedures for overseeing compliance with the DNCR Act, the ACMA sought to balance a willingness to work with industry with a readiness to take formal action where required.

This approach has been effective in improving industry compliance. The number of consumer complaints received during 2008–09 decreased by more than 60 per cent relative to the number received during 2007–08, the first year under the DNCR.

The majority of businesses act on an advisory or warning letter from the ACMA and consumer complaints about them stop. During 2008–09, the ACMA issued 390 advisory and warning letters to businesses that had been the subject of consumer complaints.

## Investigations and enforcement

During 2008–09, the ACMA commenced 12 investigations under the *Telecommunications Act 1997* into alleged breaches of the DNCR Act. These investigations related to businesses that appeared to have systemic, ongoing compliance issues, and had continued to be the subject of consumer complaints, despite receiving an advisory or warning letter from the ACMA. Each investigation focused on calls made, or caused to be made, by the relevant business over a nominated period, incorporating all consumer complaints received during that period.

Twenty-one investigations were finalised during 2008–09. Enforcement actions arising from these investigations included:

- > the issue of seven infringement notices, with the largest penalty paid to date being \$147,400 paid by Dodo Australia
- > the acceptance of eight enforceable undertakings
- > the issue of six formal warnings.

## Research into community attitudes to the DNCR

The ACMA-commissioned research into community attitudes to the DNCR shows a high level of awareness of the register amongst adults in Australia. At April 2009, 75 per cent of people aged 18 years and over were aware of the DNCR, with awareness highest for 50 to 64-year-olds and lowest for 18 to 34-year-olds, 84 per cent and 65 per cent respectively. Nearly a third of Australian households were estimated to have their home phone number registered on the DNCR while six per cent of adults with a mobile phone had registered their mobile number. This research will help inform the upcoming statutory review of the DNCR Act, and future development of the ACMA's consumer education and awareness materials.

## Australian Internet Security Initiative

The Australian Internet Security Initiative (AISI), developed and managed by the ACMA, is designed help address the e-security threat posed by 'botnets' — networks of computers that have become compromised through the surreptitious installation of malicious software (malware). This malware enables the computer to be controlled remotely for illegal and harmful activities, including the dissemination of spam, 'phishing', hosting malicious websites and distributed denial of service attacks on internet infrastructure.

Under the AISI program, the ACMA provides information to participating Australian ISPs about 'compromised' computers residing on their networks. The ISPs then contact their customers to inform them that their computers are compromised and assist them in restoring their correct operation.

The AISI was originally piloted with six ISPs in November 2005. It has been progressively extended during 2008–09, with 64 ISPs participating at 30 June 2009. Those now participating include most major and mid-level ISPs who supply services to the substantial majority of Australian internet customers.

The ACMA will continue to expand and enhance the AISI during 2009–10.

## Spam monitoring and compliance

The ACMA's enforcement of the *Spam Act 2003* (the Spam Act) culminated this year with its first Federal Court action relating to SMS spam. In December 2008, Federal Court proceedings were lodged against Mobilegate Ltd, Winning Bid Pty Ltd, Jobspy Pty Ltd, and individuals associated with those companies concerning SMS messaging services known as 'Safe Divert' or 'Maybemeet'. In May 2009, the ACMA was successful in obtaining interlocutory orders against some of these respondents. It is expected that the case will go to trial in the second half of 2009.

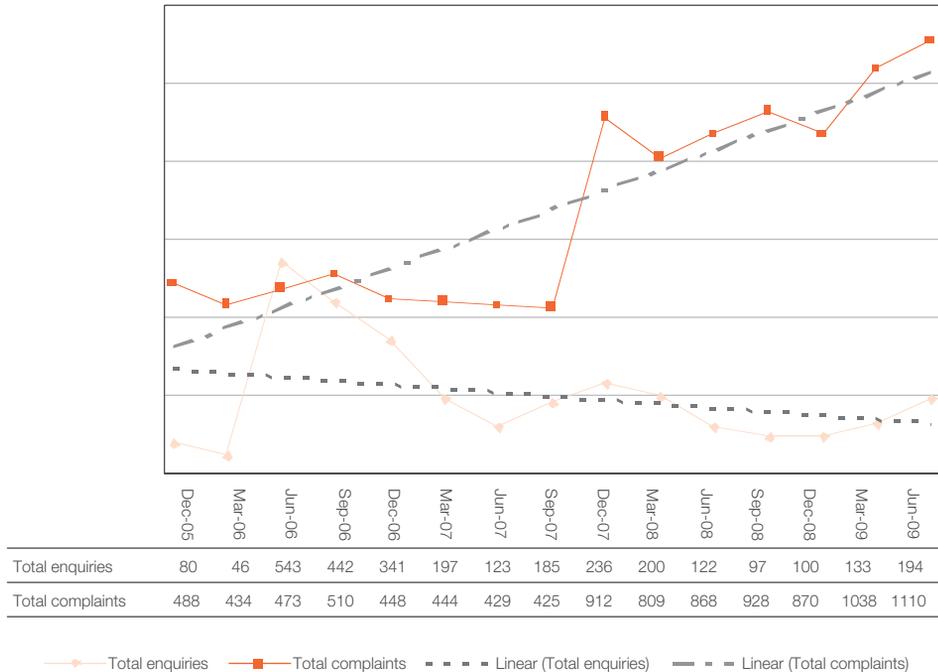
During the year, the ACMA alleged Optus Networks failed to provide adequate sender identification in thousands of SMS marketing messages sent to its customers. Optus paid infringement notices of \$110,000.

The ACMA continued to see a steady increase in complaints about spam, particularly concerning SMS spam. During 2008–09, the ACMA saw an increase of 31 per cent from last year, including a 71 per cent increase in complaints about SMS spam.

During 2008–09, the ACMA received:

- > 3,947 written complaints, of which 2,955 (75 per cent) related to email spam and 992 (25 per cent) to SMS spam
- > 635 written enquiries and over 1,000 verbal enquiries on the spam telephone hotline
- > 7.9 million reports of spam submitted using the SpamMATTERS reporting button.

Figure 5.26: Trends in quarterly spam complaints and enquiries received by the ACMA, December 2005 to June 2009



Source: The ACMA.

### Other enforcement action

In 2008–09, the ACMA undertook 25 mid-level and major investigations related to the Spam Act. The ongoing focus on SMS-based marketing culminated in seven enforcement outcomes relating to SMS marketing. During the year, the ACMA issued three formal warnings, seven infringement notices totalling \$376,200 and accepted two enforceable undertakings, one with a financial component of \$10,000.

While the year's focus on SMS spam was successful, particularly the SMS activity of premium service providers, email spam continues to remain a problem for the Australian public. The ACMA's education initiatives have focused on key industry sectors involved in electronic marketing, such as the real estate and entertainment industries. These industries use a combination of email and SMS marketing. Email marketing activity by online retailers will also be a priority for the upcoming year.

### SpamMATTERS

The ACMA launched the SpamMATTERS spam reporting application on 30 May 2006. SpamMATTERS, which is available as a free download from the ACMA website, allows spam to be reported to the ACMA with one click of a computer mouse.

At 30 June 2009, there were more than 376,240 registered users who had submitted 49,759,751 items of email spam. This compared with 294,000 users at June 2008. The spam reported using SpamMATTERS is not representative of spam generally in circulation over the internet, but is rather the more sophisticated and problematic spam which has transited through ISP spam filters before being received in user's inboxes.

The data generated through SpamMATTERS was used in several of the ACMA's investigations in 2008–09. It was also provided on request to overseas authorities to assist them in their investigations. Where data appears to relate to phishing or other crimes, it is sent to relevant law enforcement agencies and, by arrangement, relevant industry partners.

### Research into community attitudes towards spam

In a survey commissioned by the ACMA in June 2009, 78 per cent of respondents aged 18 years and over in Australia reported some knowledge of spam, with 68 per cent of these identifying it as either unwanted or unsolicited emails or messages, and a further 32 per cent equating it with either junk mail, pop up messages, advertising or marketing.

The survey showed that awareness of Australia's spam laws was low, with only 28 per cent of adults reporting an awareness of the existence of such laws. In dealing with email-based spam, the majority of persons relied on services provided by third parties, including automatic filter services provided by their webmail provider (42 per cent), their place of work or education (37 per cent) or their ISP (35 per cent); while 33 per cent relied on a filter that they had downloaded or bought themselves.

### Cooperating with industry

The Internet Industry Spam Code of Practice (IIS Code) came into force on 16 July 2006. Developed by the internet industry and registered with the ACMA in March 2006, the IIS Code is designed to complement the Spam Act. Under the IIS Code, internet and email service providers must provide spam-filtering options to their subscribers. They must also give end-users information about how to deal with spam and have a process for handling complaints from subscribers. In March 2007, the Internet Industry Association's Spam Virtual Taskforce commenced a review of the code.

The Australian eMarketing Code of Practice 2005 outlines best practice to follow for electronic marketing. There were no complaints received under either code during 2008–09.

## Telecommunications codes – Development and review

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Under Part 6 of the *Telecommunications Act 1997*, the ACMA registers codes developed by industry bodies.

At 30 June 2009, there were 22 such registered codes, comprising:

- > 19 codes developed by the Communications Alliance Limited (CA) or its predecessor, the Australian Communications Industry Forum (ACIF)
- > the Cabling Requirements for Business Code, developed by the Cabling Industry Committee
- > the Australian eMarketing Code of Practice 2005, developed by the Australian Direct Marketing Association
- > the IIS Code, developed by the Internet Industry Association with the Western Australian and South Australian Internet Associations.

### Communications Alliance codes registered by the ACMA in 2008–09

Communications Alliance developed the C637:2009 Mobile Premium Services (MPS) Code which was registered by the ACMA on 14 May 2009.

### Industry compliance with telecommunications codes

#### Credit management/financial hardship provisions of the Telecommunications Consumer Protections Code

In response to a request from its Consumer Consultative Forum, the ACMA assessed 44 carriage service providers' compliance with the financial hardship provisions of the C628:2007 Telecommunications Consumer Protections Code (the TCP Code).

The TCP Code requires carriage service providers to have a policy to assist customers experiencing financial hardship. On request, a carriage service provider must assess a customer's eligibility for assistance under its financial hardship policy taking into account the customer's circumstances.

Of the 39 providers still operating in February 2009, the assessment found 37 to be compliant.

BKB Internet Pty Ltd and Ezycall Pty Ltd were found to have contravened the TCP Code by having non-compliant policies. These providers were formally directed by the ACMA to comply with sections 7.5 and 7.6 of the TPC Code. BKB Internet is now compliant while the direction issued to Ezycall has been revoked as it no longer has any Australian telecommunications customers.

A public report on the assessment is now available on the ACMA's website.<sup>3</sup>

#### Complaint handling policy provisions of the TCP Code

The ACMA assessed the compliance of 97 telecommunications carriage service providers with section 9.1.2 of the TCP Code.

Section 9.1.2 of the TCP Code requires providers to have and publish a complaint handling policy which includes information about the right to complain and how, when and where to make a complaint.

At the conclusion of the assessment, 98 per cent have been assessed as compliant. The ACMA is currently considering its regulatory options for two providers who have not responded to formal requests for information.

A public report on the assessment will be released in the first quarter of 2009–10.

3 [www.acma.gov.au/webwr/telcomm/industry\\_codes/codes/compliance%20report%20-%20financial%20hardship%20provisions%20final.pdf](http://www.acma.gov.au/webwr/telcomm/industry_codes/codes/compliance%20report%20-%20financial%20hardship%20provisions%20final.pdf)

### Accessibility Features Code

The ACMA has undertaken an assessment of equipment suppliers (ES) in order to establish the level of industry compliance with ACIF C625:2005 Information Accessibility Features for Telephone Equipment (the Accessibility Features Code).

Seventeen equipment suppliers were assessed based on information from an initial desktop data gathering process, followed by a shadow shopping exercise to determine whether information was available at a retail level. The ACMA worked with those suppliers whose accessibility information required improvement to achieve compliance, in accordance with its code compliance approach.

There was a significant improvement in industry compliance from a starting position of two compliant suppliers to a point where all 17 equipment suppliers were compliant at the end of the assessment. A public report on the assessment is now available on the ACMA's website.

### Direct debit provisions of the TCP Code

ACMA is undertaking a website-based assessment of industry compliance with the direct debiting provisions of Chapter 6 (Billing) of the TCP Code. Chapter 6 of the TCP Code sets minimum standards regarding the manner and timeliness of issue of customer bills, billing information provided to customers and facilities for customers to verify charges presented in bills.

A sample of 118 carriage service providers were assessed to determine their compliance with subclause 6.5.3(a) of the TCP Code which relates to the automatic direct debiting of billed amounts.

All but three companies assessed are compliant. The ACMA is currently working with those non-compliant providers to achieve compliance. A public report will be released on completion of the assessment.

## Telecommunications Industry Ombudsman complaint statistics

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The Telecommunications Industry Ombudsman (TIO) Scheme is an independent scheme providing for the resolution of unresolved complaints about carriage service providers (CSPs) by residential and small business customers. Information about complaints to the TIO provides a barometer of the telecommunications industry's performance in dealing with its customers.

The TIO recorded 481,418 complaint issues in 2008–09, up from 268,645 in 2007–08. This represents a 79.2 per cent increase in a year and a 668 per cent increase since 2003–04. This is the largest annual increase in complaint issues since the scheme commenced operation.

Table 5.13 shows complaint trends for fixed-line, mobile and internet services. During 2008–09, there were increases in:

- > mobile complaint issues—up by 107 per cent to 178,019
- > internet complaint issues—up by 81 per cent to 115,437
- > fixed-line telephone service complaint issues—up by 65 per cent to 159,153
- > mobile premium services complaints issues—up by 29 per cent to 28,809.

### Billing and payments

Complaint issues about billing and payments increased from 52,304 in 2007–08 to 112,450 in 2008–09. This was the most complained about category (over 23 per cent of total complaint issues). The complaints were spread over a number of issues including disputes about usage charges and recurring charges, credits not applied and bills not received.

### Customer service

Complaint issues about customer service increased to 90,357 in 2008–09 from 52,527 in 2007–08 and 27,048 in 2006–07. This is the second highest complaint category. The main causes of customer service complaint issues concerned incorrect or inadequate advice (over 38,500 complaint issues), followed by failure to action requests (over 29,500 complaint issues).

Table 5.13: TIO complaint issues, 2002–03 to 2008–09

Year	Mobile	Fixed-line telephone	Internet	Mobile premium services	Total	% change
2002–03	16,773	37,206	8,691	–	62,670	–11%
2003–04	21,465	36,167	10,388	–	68,020	9%
2004–05	40,254	44,559	16,012	–	100,825	48%
2005–06	52,119	52,294	23,066	–	127,479	26%
2006–07	54,285	54,336	48,181	10,083	166,885	31%
2007–08	85,968	96,611	63,760	22,401	268,645	61%
2008–09	178,019	159,153	115,437	28,809	481,418	79%

Note: Mobile premium services complaints for 2006–07 cover the last seven months of the financial year only.  
Source: TIO.

### Complaint handling

Of the 66,000 complaint issues in this category, more than half were about the failure of service providers to action undertakings. If these complaints are added to those relating to the failure to action requests (cited above against customer service), there is a perceived failure by service providers to meet their undertakings.

### Faults

Complaint issues about faults increased to 55,579 in 2008–09 from 37,784 in 2007–08 and 20,572 in 2006–07. Major sources of complaints included equipment faults for non-Customer Service Guarantee services, which is consistent with the growth in other services like 3G mobile data devices.

### Contracts

Complaint issues about contracts increased to 53,814 in 2008–09 from 30,391 in 2007–08 and 18,148 in 2006–07. Almost half of these complaints related to point of sale advice.

## Communications infrastructure regulation

### Installation of telecommunications facilities

Telecommunications carriers have specific powers and immunities under Schedule 3 of the *Telecommunications Act 1997*. Carriers have the right to inspect land, install certain types of telecommunications facilities, and maintain telecommunications infrastructure.

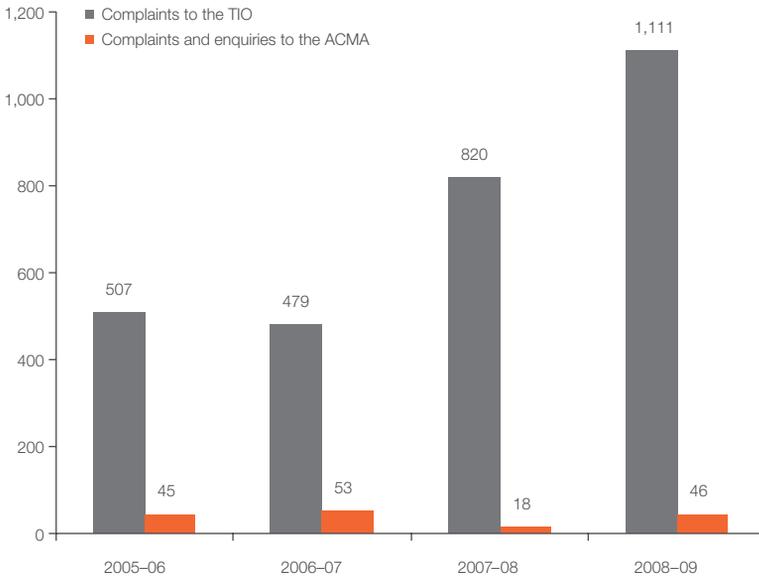
The right to install a facility is limited to those facilities specified in the Telecommunications (Low-impact facilities) Determination 1997 (the LIF Determination) or a temporary defence facility, or where the carrier holds a facility installation permit for the facility. Of these facilities, most are deployed under the LIF Determination and include:

- > certain radio and satellite installations
- > co-located facilities installed on or within another facility or structure
- > temporary emergency installations
- > underground cables
- > public payphones.

The installation of telecommunications facilities not specified in Schedule 3 of the *Telecommunications Act 1997* or the LIF Determination requires local government planning permission, and telecommunications carriers must comply with relevant state and territory planning laws.

When exercising their powers to inspect land, install certain facilities and maintain infrastructure, carriers must comply with conditions specified in the Telecommunications Code of Practice 1997. Under the code carriers must notify the owner and occupier of the land about their activities, ensure as little detriment and damage is caused by the activity and restore land to a similar condition to its condition before the activity began.

**Figure 5.27: Facility installation complaints received by the ACMA and TIO, 2005–06, 2006–07, 2007–08 and 2008–09**



Sources: *The ACMA and TIO.*

The ACMA may investigate alleged breaches of the Telecommunications Act and the code.

The number of complaints and enquiries received by the ACMA about the installation of low-impact facilities increased slightly over the previous reporting year.

The majority of land access complaints to the TIO related to damage to property by carriers. Of these complaints, 81 related to the failure of a carrier to give notice to the landowner or occupier, and 86 complaints were objections by the landowner or occupier to the activity.

During the reporting period, 13 objections were referred to the TIO from eight different carriers—Telstra (three), Optus (three), Vodafone (two) and one objection was received from each of the following carriers: PowerTel, AAPT/PowerTel, BigAir Group, Cirrus Communications and Vertical Telecoms. From the objections received, the TIO issued directions to three of the respective carriers about those objections, one objection was not finalised at 30 June 2009.

## Electromagnetic energy regulation

The ACMA's electromagnetic energy (EME) health exposure regulatory arrangement requires a wide range of radiocommunications facilities and portable equipment, such as mobile phone handsets, to comply with EME limits set out in a standard prepared and published by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The standard is based on an international guideline that incorporates significant safety factors with exposure limits set well below levels shown to cause adverse health effects. ARPANSA is the government agency responsible for radiation research and protection.

Mobile phone base stations and broadcast transmission towers typically produce low EME levels in the everyday environment. A survey, coordinated by ARPANSA, of environmental EME from mobile phone base stations found that the signal levels on the ground near the towers fall well within the general public exposure limits of the ARPANSA standard.<sup>4</sup>

4 ARPANSA Base Station Survey 2007–09 and ARPANSA Fact Sheet EME Series No. 10 both available at: [www.arpansa.gov.au](http://www.arpansa.gov.au)

To ensure there is compliance with the EME regulatory arrangement, licensees need to have their transmitter facilities assessed, and manufacturers and importers of mobile phone handsets and similar equipment must have their products tested for compliance before supply is permitted to the Australian market. Significant penalties apply for breaches of the EME arrangements.

### Mobile phone towers

The Industry Code ACIF C564:2004 Deployment of Mobile Phone Network Infrastructure (the Infrastructure Code) aims to supplement the regulatory regime by extending the obligations on carriers to particularly have regard to EME exposure and community consultation. The obligations placed on carriers by the Infrastructure Code include requirements to:

- > design and operate radiocommunications infrastructure to minimise electromagnetic energy (EME) exposure
- > provide certain information to the public on request about EME for specific sites
- > develop consultation plans for installations at new sites for certain facilities
- > provide information to councils on network forward planning for the region if requested
- > turn off transmitters that are out of service.

The Mobile Carriers Forum (MCF) has established an online listing at [www.rfnsa.com.au](http://www.rfnsa.com.au) of all mobile phone base stations built or upgraded since April 2003. The listing also includes EME assessment reports for the base stations. MCF is the industry group representing the four mobile phone carriers deploying mobile networks in Australia; namely Hutchison, Optus, Telstra and Vodafone. MCF is a division of the Australian Mobile Telecommunications Association (AMTA), the peak industry body for the telecommunications industry. MCF deals specifically with issues related to the deployment and operation of mobile phone networks.

The ACMA examines complaints against the Infrastructure Code and may take regulatory action under Part 6 of the *Telecommunications Act 1997*. Information about complaints made under the code is provided in the ACMA's annual report for 2008–09.

### Mobile phones and portable wireless devices

The ACMA's electromagnetic energy (EME) regulatory arrangement applies to suppliers to the Australian market of mobile and portable radiocommunications transmitters with inbuilt antennas. Suppliers are required to have their products evaluated against the ARPANSA exposure standard, label products with a compliance mark and maintain compliance records for ACMA inspection. The arrangement covers a wide range of equipment types that includes transmitters used in marine, citizen band (CB) and land mobile applications, cellular and cordless phones, and satellite phones.

Some devices are exempted from the regulatory arrangements. Transmitters that are intended to be used only to alert rescue authorities to the locations of persons in distress are not subject to the EME limits given the life-saving potential of these devices.

AMTA, the peak industry body representing mobile phone manufacturers, has made publicly available the specific absorption rate (SAR) measurement values for mobile phones supplied to the Australian market. SAR is the health exposure measurement specified in the EME standard, and for mobile phones must not exceed two watts per kilogram averaged over 10 grams of tissue. SAR values are also provided voluntarily by manufacturers as part of handset packaging. AMTA also provides the information on its website at [www.amta.org.au](http://www.amta.org.au). The ACMA also manages a program of post-market surveillance of products.

### Further information

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#### Organisations

- > Communications Alliance  
[www.communicationsalliance.com.au](http://www.communicationsalliance.com.au)
- > Do Not Call Register  
[www.donotcall.gov.au](http://www.donotcall.gov.au)
- > National Relay Service  
[www.relayservice.com.au](http://www.relayservice.com.au)
- > Australian Communications Exchange  
[www.aceinfo.net.au](http://www.aceinfo.net.au)
- > Industry Number Management Services  
[www.inms.com.au](http://www.inms.com.au)
- > Telecommunications Industry Ombudsman  
[www.tio.com.au](http://www.tio.com.au)