



TELECOMMUNICATION
**DISPUTE
RESOLUTION**

January to December 2009

Annual Report

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Report from the Chair

It has been a good year for customers of telecommunication companies that belong to the Telecommunication Dispute Resolution (TDR) Scheme.

Surveys have shown that 95% of consumers who made use of the TDR service were satisfied with the way the complaint was handled (74% very satisfied). This is a credit to the skills of the front-line facilitators, dealing with people who are often confused, at times angry and, without exception, unhappy about some aspect of the service received from their phone company.

Of course it is a two-way street. The companies that belong to the Scheme have shown a commitment to looking after the interests of their customers. No matter how robust a company's own complaints handling system, there will always be the occasional dispute that can't be resolved. The Member companies recognize this and, at their expense, are prepared to hand the matter to an independent resolution process.

Industry/consumer-run customer complaint schemes rely on the goodwill of both parties and I'm happy to report that this is understood and practised by both consumer and industry TDR Council members. Despite this desire for the TDR service to work effectively, it would be unusual for a relatively new scheme to run smoothly from the start. We are not an exception. An ongoing issue is the allocation of the Scheme's costs between the participating companies against which complaints have been laid. This perceived inequity has led to two companies resigning from the Scheme. An adjustment to the fee structure has been implemented; however, more work is needed to satisfactorily resolve the issue.

While we must make the cost of the Scheme as fair as possible, we must also encourage more companies to join. It is unsurprising that companies that choose to belong to the TDR Scheme do so because they feel a responsibility to their customers. Conversely, companies that remain outside the Scheme are depriving their customers of an important service. We know that some companies that have not joined TDR have a large number of disgruntled customers. In 2009 11% of all the calls received by TDR related to non-Scheme Members. We believe their customers deserve better. Indeed, customers looking for service and the security of an independent dispute resolution service should consider choosing a provider that is a TDR Scheme Member.

My thanks to my fellow councillors, the staff of our service provider, and the administrative support of the Telecommunications Carriers' Forum (TCF).



David Russell
Chair TDR Council

Introduction from Neil McKellar,
Chief Executive, DRSL and
Derek Pullen, Manager, TDR

TDR has reached another milestone – the completion of our second year in business, providing a free and independent service to help resolve disputes between consumers and telecommunication service providers.

It's been another busy 12 months, with total call volumes 16 per cent higher than the total number of calls received last year. There was also a related increase in the number of enquiries that we couldn't take further (non-relevant enquiries or NREs). Of the 1621 matters we dealt with in 2009, 1000 were NREs – mostly because the customers hadn't lodged official complaints with their providers before contacting us. We believe this reflects a greater awareness of TDR, but not necessarily of how the Scheme works.

Of the remaining 621 cases, 496 were referred back to the relevant providers because they were still trying to resolve them through their own internal complaint-management processes. Another 27 led to 'facilitated negotiation' and 15 were escalated to the next level, conciliation.

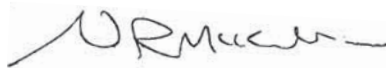
In a significant change from last year, the number of complaints progressing further, to adjudication, swelled from just one to 26.

Despite these increases in workload, we've maintained our strong commitment to service excellence. A recent customer satisfaction survey reported excellent results, and we continue to receive positive feedback through a number of informal mechanisms. Pages 10 to 11 provide just a few examples of the 'bouquets' from our customers. It is important to note how vital our strong working relationships with the telecommunication companies that are Scheme Members are to this success, and work is ongoing to address their issues.

In last year's report we mentioned our role in a Telecommunications Carriers' Forum working party, which was looking at possible Scheme changes to align TDR's policies and procedures more closely with those of the Australian Telecommunications Industry Ombudsman. This work is ongoing, and we'll also be facilitating an independent review of the Scheme in the second quarter of 2010. We look forward to receiving, and considering, any recommendations that result.

In other work during 2010, TDR will be helping to build awareness of the Scheme with a focus on providing information about the complaints process. A summary of our 2010 Business Plan, covering other work we have scheduled for the year, is included as an appendix to this report.

Finally, our thanks go to the TDR team, who've continued to deliver outstanding service to Scheme Members and their customers. Your support, hard work and commitment are very much appreciated.












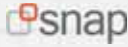





Neil McKellar
Chief Executive, DRSL



Derek Pullen
Manager, TDR

TDR Scheme Members

January to December 2009

	Deed sign date	Compliance date	Complaints received	
	02-11-2007	03-03-2008	–	
	18-07-2007	30-11-2007	★	Withdrew from Scheme 05-03-2009
	01-11-2007	01-03-2008	–	
	19-11-2007	19-03-2008	–	
	12-11-2007	30-11-2007	★	Withdrew from Scheme 06-07-2009
	12-11-2007	12-05-2008	–	Managed by Orcon as of 01-09-2009
	03-10-2007	03-02-2008	–	
	30-10-2007	30-11-2007	–	
	06-07-2007	30-11-2007	★	
	02-11-2007	02-03-2008	–	
	06-07-2007	30-11-2007	★	
	16-07-2007	30-11-2007	★	
	28-11-2007	28-03-2008	–	
	11-07-2007	30-11-2007	★	
	24-08-2007	24-12-2007	★	Withdrew from Scheme 18-05-2009

KEY: ★ Complaints have been received about this Scheme Member

Types and causes of disputes

The way TDR complaints are categorised was changed during 2009, to better account for the types of complaint being received by the TDR service. This is a natural 'evolution' of a new complaints scheme, and will allow for better reporting of complaint types and systemic issues. However, it has also made detailed year-on-year comparisons difficult.

That said, the types of complaint received and systemic issues identified were broadly the same in 2009 as in 2008.

In 2009, we received disputes relating to:

<u>Billing practices</u>	(39%)
<u>Customer service</u>	(18%)
<u>Faults management</u>	(15%)
<u>Contractual terms and conditions</u>	(7%)
<u>Network performance issues</u>	(6%)
<u>Service transfers</u>	(5%)
<u>Credit management</u>	(5%)
<u>Complaints handling (internal)</u>	(3%)
<u>Other</u>	(2%)

The complaint levels have remained the same:

- At level 1, TDR establishes whether 'deadlock' has been reached. This is when the provider's internal complaints procedure is complete, or when six weeks have passed since the customer made a complaint and there has been no resolution.
- At level 2 (facilitated negotiation), TDR facilitates a negotiation between the customer and the provider by exchanging documents.
- At level 3 (conciliation), a TDR conciliator works with both parties to achieve a mutually acceptable outcome.
- At level 4 (adjudication), a TDR adjudicator considers all the information available and delivers a fully reasoned, written decision that is binding on the provider.

We can also classify a dispute as a 'non-relevant enquiry' (NRE) – an enquiry that hasn't yet been lodged with the provider, isn't attributable to a Scheme Member, doesn't relate to a customer's telecommunication service, or relates to an event that occurred before the Scheme began operating on 30 November 2007.

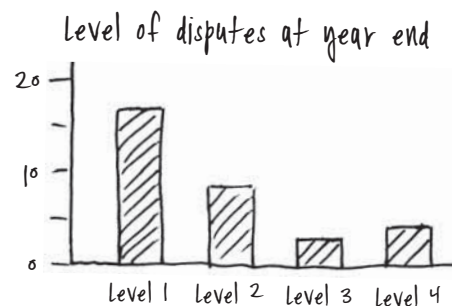
During 2009, the vast majority of disputes (536) were closed at level 1 – mostly because providers were still trying to resolve the issues through their internal complaint-management processes, and deadlock had not been reached.

Thirty-four disputes escalated to level 2, 18 to level 3 (conciliation), and 30 to level 4. At year's end, 17 disputes were at level 1, seven at level 2, three at level 3 and four at level 4.

In reporting on (and analysing) the types and causes of these disputes, TDR categorises each one according to the nature of the complaint that gave rise to the dispute. Disputes involving multiple issues are categorised according to the customer's major complaint, but flexibility in TDR's recording system enables it to record these issues and identify potential systemic problems.

Billing

Most complaints in 2009's 'billing' category related to disputed amounts, data use charges and account errors, with roaming charges, credit adjustments and pre-paid mobile billing issues accounting for most of the rest.



Customer service

Most customer service complaints in 2009 related to incorrect or inadequate advice, and a failure to action requests. Others concerned installation problems, a failure to keep customers informed, providing incorrect or inadequate information, and discourtesy.

While TDR received fewer complaints than in 2008 about lengthy waiting times when contacting providers, customers continued to complain about not receiving responses to emails, or phone calls not being returned despite being informed they would be.

Customer service issues are also frequently raised in combination with complaints about other issues.

Faults

As in 2008, equipment failure accounted for most of the fault-related complaints, followed by delays in service restoration. However, there was a significant increase in the number of complaints about providers claiming that mobile phone problems were the result of moisture damage.

Recurring faults accounted for most of the remaining faults complaints.

Contracts

As in 2008, complaints in the 'contracts' category related to sales tactics and advice provided at the point of sale, and the accessibility and/or variation of terms and conditions.

Network performance issues

Most complaints in this category were prompted by performance issues with mobile phone and internet services. However, while TDR continued to receive complaints about speed and service interruptions, the numbers were down on the 2008 figures.

Transfers

Most complaints in the 'transfer' category concerned unauthorised transfers, while others related to sales tactics and point-of-sale advice, service transfer delays, service transfer reversals and porting issues.

Credit management

Most complaints in the credit management category concerned collection agents, while the rest related to payment arrangements and service suspensions or disconnections.

A few customers complained about providers failing to suspend credit action after debts were disputed.

Complaint handling (internal)

This category was established in the latter part of 2008 to capture complaints about the way that providers acknowledge, record and escalate complaints, and failures to action undertakings or advise outcomes. Only nine complaints were recorded in this category during the year.

Other

Owing to a classification refinement process, only a handful of complaints were allocated to this category during 2009 and this is significantly down on 2008. This in turn made it easier for TDR to analyse accurately the root causes of complaints it received.

TDR also received a number of complaints this year about mobile 'roaming' charges, unauthorised subscriptions to premium mobile text services, and the loss of top-up credits on prepaid mobile phones.

Systemic issues

One of TDR's key roles is to report on systemic issues – that is, those issues that relate to process or procedural problems within one or more telecommunication companies. These issues generally affect customers beyond those involved in a particular dispute.

Contractual terms and conditions

Customers continued to complain about the timing and adequacy of information provided by telecommunication companies and their representatives – not giving enough information about products or services, giving them incorrect or misleading information, or a combination of both.

It's vitally important that customers have the information they need to make informed decisions on, or give informed consent to, buying products or services.

What customers can do:

- Always read terms and conditions before agreeing to the contract.
- If there's something they don't understand, ask for clarification.
- Make it clear what they want from the product or service so the provider can advise them whether it meets their needs.

What Scheme Members can do:

- Simplify the terms and conditions, and set them out so they are easy to read and understand.
- Highlight all the costs associated with the product/service, including termination charges and exclusions from liability.

We've alerted the Scheme Members involved and we'll continue to monitor this issue in the coming year.

Internet data and roaming charges

An increasing number of complaints in 2009 were about internet data and mobile roaming charges. Customers told TDR they were not given adequate or accurate information about the charges, and that they couldn't monitor their data usage – and were then sent bills for the charges, which could run into thousands of dollars.

What customers can do:

- Carefully read terms and conditions, and contact their provider if they are uncertain about what it may mean for them.
- Ask how their provider makes in-month monitoring available.
- Monitor their usage.
- Contact their provider or check the relevant website before leaving the country to check the latest rates.
- Carefully read the text message received from their provider upon arrival.

The key systemic issues highlighted during 2009 were:

- contractual terms and conditions
- internet data use
- service transfers
- unauthorised subscriptions.

“What was amazing was a dispute that had dragged on for months with my service provider was resolved to my complete satisfaction within two hours!”

What Scheme Members can do:

- Improve the visibility and function of their in-month usage monitoring.
- Offer customers the option of capping their monthly usage.
- Provide more information at the point of sale, and make sure it is accurate.
- Highlight the likely costs associated with the service.
- Tell customers if extraordinary charges are being incurred during a billing period.

Service transfers

While a significant proportion of complaints about service transfers involved companies that are not members of the TDR Scheme (and therefore are not under the jurisdiction), it remains a systemic issue.

A high proportion of complaints related to delays in providing or transferring services, with providers not living up to their 'promised' schedules. Other issues related to unauthorised transfers, forceful sales tactics, number porting errors and customers receiving bills from new and former providers for the same service.

TDR welcomes the draft 'Transfer of Telecommunications Services Code', which appears to be a commendable attempt to address complex transfer issues involving multiple parties.

Unauthorised subscriptions

TDR received complaints about unauthorised subscriptions to mobile phone premium text services, where customers were charged for text messages without knowingly subscribing to the text message services.

Scheme Members provided advice for customers about how to stop and unsubscribe from these services, but in a number of cases the customers said they struggled or were unsuccessful in stopping the subscriptions. A number of the customers were children and young adults.

In most instances, customers were completely unaware they had signed up to the services – the text messages just began arriving, charging the consumers for each one that was sent.

What customers can do:

- Immediately report the problem to their telecommunication service provider.

- Be careful when allowing children access to mobile phones – many of these cases happened when children were playing on their parents' phones.
- Be careful about giving out their mobile phone number to advertised products and services, or website 'pop ups'.
- Carefully read messages before responding 'yes'.
- Send a 'STOP' command to the service provider to terminate the service, and save the message as confirmation for later reference in case of dispute.

What Scheme Members can do:

- Monitor and enforce compliance with the Mobile Premium Messaging Services Code (a non-regulated industry code of practice that sets standards for telecommunication service providers, content service providers and content providers, covering issues such as the customer authorisation and notification process, advertising requirements and additional rules relating to subscription and chat services).

“From the time I sent my email to TDR, their time to get back to me was superb.”

Transfer/connection delays

TDR also received complaints about delays in providing or transferring services. The typical complaint was that providers ‘promised’ customers that specified services (usually broadband connections) would be able to be provided by a definite date. When after that date the installations had not occurred, the customers were not only left without the services, but not given information about the cause or the anticipated length of the delays.

What customers can do:

- Question their provider closely about its ability to supply requested services to meet promised timeframes, before notifying anyone about contact details, printing letterheads and business cards, etc.
- Understand that providers do not guarantee the supply of a service or the date on which a service will be available.

What Scheme Members can do:

- Provide realistic information about their ability to supply services, and the timeframes for doing so.

- Provide customers with information about potential obstacles to the provision of services.
- Keep customers informed about any delays that occur, the reasons, and the expected time to resolve the issues.

TDR has raised all of these issues with Scheme Members, and will continue to do so.

Follow-up on 2009 systemic issues

Warranties for moisture-damaged phones

While complaints on this issue declined in the early part of 2009, they increased during the year and continue to be a concern. A typical complaint is made after a customer finds a fault with a phone that’s then diagnosed by a technician as ‘moisture damage’ – and is therefore excluded from most mobile phone warranties.

As ‘moisture damage’ can result from moisture of almost any kind (including moisture in the air), customers are understandably perplexed.

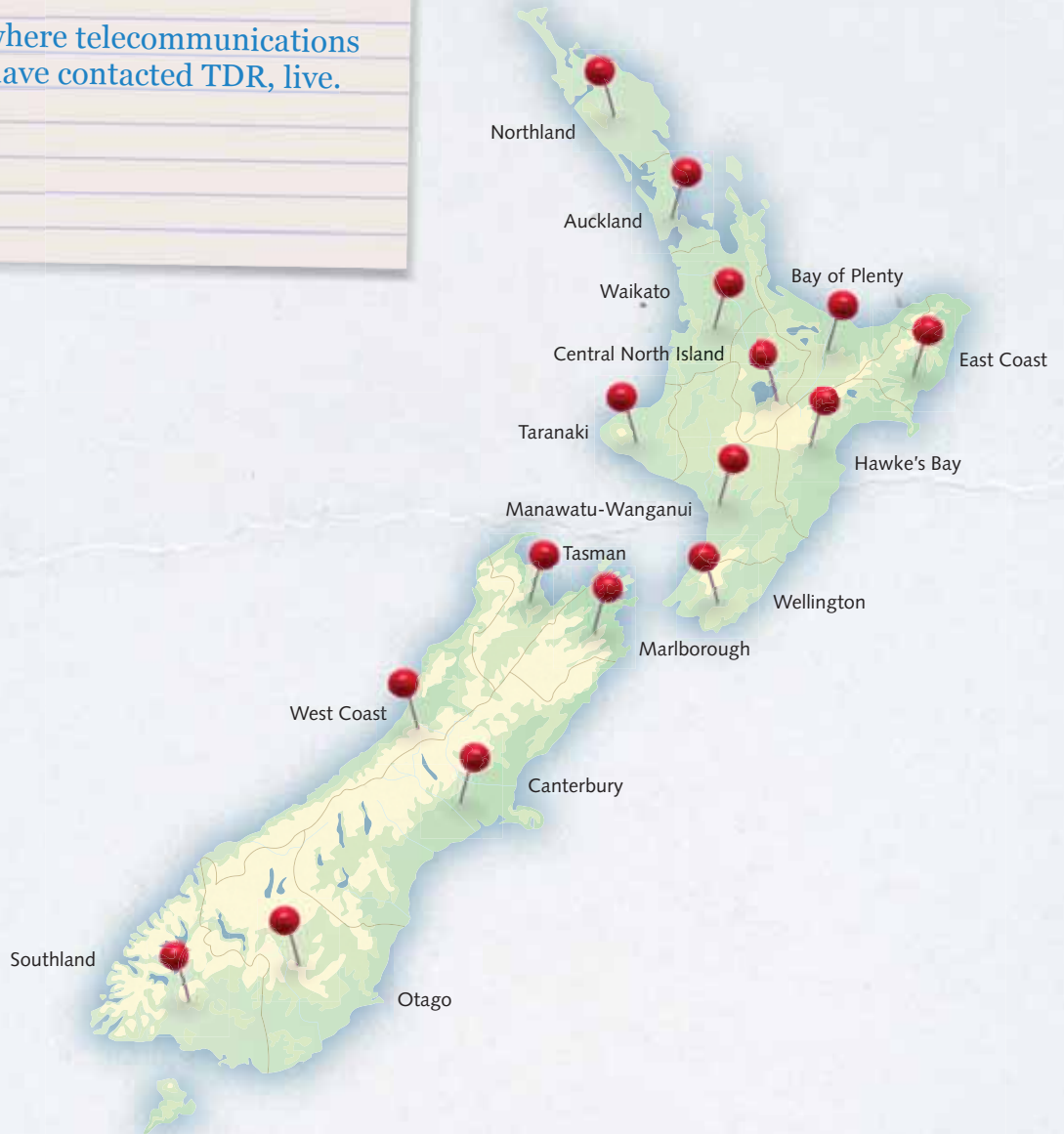
We have advised providers they could be doing more to raise awareness of the issue and educating customers on how to prevent moisture damage in the first place.

TDR will continue to monitor complaints in all of these areas, and will encourage telecommunication service providers to play their part in helping customers to be more aware of how their services work, and how much consumers will be charged for them.

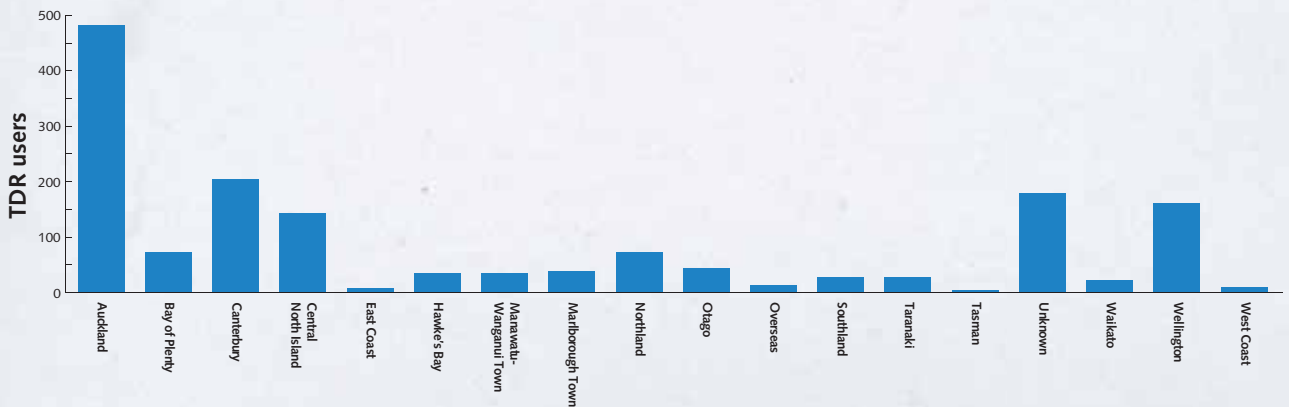
As in 2008, these key issues highlight the importance of providers communicating with their customers and each other. All telecommunication service providers – whether Members of the TDR Scheme or not – should make sure the information they provide is comprehensive but still easy to understand, and that the services they offer are robust and reliable.

By addressing these problems, providers can not only reduce the number of complaints being made to TDR, but improve their business competitiveness and secure customer loyalty.

The map shows where telecommunications customers, who have contacted TDR, live.



Demographics of TDR users 2009



Customer feedback during the year

During 2009 TDR undertook a customer satisfaction survey – asking a number of questions of more than 200 people who had used the TDR service. The results were extremely gratifying.

TDR also received a significant amount of anecdotal feedback from customers through informal mechanisms such as emails and phone calls.

“My complaint against the mobile phone provider was long and tedious. My contact with TDR was positive and professional. I followed the TDR advice and eventually had a satisfactory outcome. I would recommend this service to any other person I knew who was having difficulty with a phone supplier or company.”

“I must say that you guys rock; very fast and efficient service. A great idea would be to work on getting the communication providers to use the same complaint process as you do so that maybe we can resolve the complaint before it gets to you, or it will make your jobs easier to seek a resolution... it's awesome you guys are here to help us.”

“Your agent could not have been more helpful and informative – he talked me through the whole process, then when I had to call back his colleagues were equally up to speed. I cannot be too appreciative.”

customer satisfaction

- Satisfied or very satisfied with:
 - the way staff dealt with them 96%
 - how their complaints were handled 95%
- Rated the process as fair and impartial 93%
- Would recommend TDR to their friends 96%

“We had on numerous occasions rung X. They showed little understanding of our dispute/complaint. We spoke with TDR on two occasions at the minimum. They responded immediately with instant results. I would like to thank TDR for your prompt, professional and friendly approach. The outcome was more than satisfactory. A credit of \$500 was applied to Z’s account. Thank you very much for all your assistance.”

“You are all good people who understand the pain and suffering of other people who have grievances. Keep it up. Together we can build a strong nation of positive people.”

“My complaint was with X. They made a \$1400 error and took four or five months to correct it. TDR took four minutes getting back to me and instantly got X to respond.”

Case studies

These case studies are loosely based on complaints received by TDR during 2009. All identifying information has been removed.

1. Ongoing faults

After experiencing 'dropped calls' on his new mobile phone, a customer returned the phone to the store where he'd bought it.

While a subsequent under-warranty technical check found no fault with the phone, the problem continued – so the customer returned to the store a second time. Another check revealed the same result. The same thing happened some time later, after the phone's two-year warranty had expired. Once again, the customer returned the phone to the store – this time to be told that he would now be charged for the technical check. The customer argued that the problem was the same as that which had developed while the phone was under warranty, and that the phone should be replaced at no cost to him. The provider declined his request, and the customer contacted TDR.

Conciliation discussions with the provider revealed that they believed the dropped calls were a mobile coverage issue, rather than a fault with the mobile phone. The matter could not be resolved, so the complaint proceeded to adjudication.

After considering all the facts provided by the two parties, the adjudicator concluded that network coverage issues were more likely to be the reason for the dropped calls. As complaints about coverage are specifically excluded from TDR's jurisdiction, there was no basis for upholding the customer's claim for a replacement phone at no cost.



“Welcome to TDR.
How can I help?”

2. Repairs under warranty

After a customer's mobile phone was damaged, she received a replacement touch-screen phone through her insurance policy.

Within two weeks of using her new phone, the customer noticed scratches on the screen that were affecting her ability to see it clearly. She assumed the scratches had come from her fingernail while scrolling, and returned the phone to the manufacturer for investigation.

The manufacturer referred the customer to her service provider. They advised her that the phone was not (and was not promoted as being) scratch resistant, so they were not liable for repairing or replacing it.

The customer disagreed, saying that the screen should have been more robust given that the phone was designed to be operated using a stylus or finger. She was particularly concerned that the fault had happened after just two weeks – and to an expensive, top-model device.

The customer contacted TDR with her complaint. TDR referred the matter to the provider, but the situation reached deadlock and proceeded to conciliation. The parties agreed that the phone would be returned to the manufacturer, who would fix it at no charge (and with no effect on the warranty) if the problem proved to be cosmetic. This proved true, and the case was closed.

3. Conflicting accounts

A customer signed a two-year contract that included a free mobile phone.

Unfortunately, he accidentally left the phone in an item of clothing that was machine washed. He contacted the provider to explain the circumstances, and was left with the impression that the damaged phone would be replaced, free of charge.

The replacement phone didn't arrive, so the customer contacted the provider again. He was told there was no record of any offer of a free replacement phone, and that the representative he had spoken to had since left the company. Instead, he would have to pay \$499 for a replacement phone as the original phone's warranty had not covered water damage.

The company maintained this position in subsequent calls between the customer and its representatives. Company records showed that the customer eventually agreed to the fee, and received and activated the replacement phone.

A few months later, the customer contacted the provider to advise that his phone had been lost or stolen. He again asked for a replacement phone, free of charge. The request was declined.

The customer contacted TDR for help. After attempts at conciliation failed, the matter was referred to an adjudicator, who concluded that the provider had no legal responsibility to provide a replacement phone. They also stated that the provider was unlikely to have made the original offer, firstly because there was no record of it and secondly because the representative hadn't arranged for a replacement phone to be sent to the customer. As a result, the customer was liable to pay the \$499 charge outstanding on his account for the replacement phone that had been sent to him.

Keep your mobile phone in a safe place to avoid it being damaged

4. Misinterpreted sales advice

A visiting salesman offered a customer a phone and internet package that included (among other features) a 5GB or 10GB monthly data allowance, each with a different monthly fee. Not a particularly heavy data user, the customer asked the salesperson if it was possible to sign up to an intermediate plan: 7GB of data a month. The salesperson wrote '7GB' on the application form, and left the customer with the impression that he'd get 7GB a month (and the rest of the package) for the price of the 5GB deal.

When his first bill arrived, the customer noticed that it was for much more than he'd expected to pay. He contacted the provider and was told that he'd been charged the costs of exceeding his 5GB data use limit – and that there was no such thing as a 7GB package.

After lodging a formal complaint with the provider, the customer was contacted by a sales manager and advised that he could either stay on the 5GB plan (and pay additional costs if he exceeded the usage limit) or upgrade to the 10GB plan for a higher monthly fee. The sales manager also said that if the customer broke his contract he would have to pay a termination fee. Unhappy with his choices, the customer contacted TDR, saying that he wanted the provider to stand by the contract for a 7GB package or give him the 10GB package for the 5GB price. He also wanted a written apology.

TDR then passed on the customer's complaint (and proposed solution) to the provider. In response, they offered the customer a 10GB plan at a reduced cost for six months, as well as a sincere apology for the misunderstanding during the sale.

Still not satisfied, the customer maintained he did not need 10GB a month and still wanted 7GB for the price of 5GB. However, the provider reiterated that it did not have a 7GB plan. The matter escalated to conciliation – and a solution. The provider released the customer from his contract without penalty, waived the additional fees that had been charged and wrote the customer a formal letter of apology.

5. Contract misunderstandings

A customer contacted his provider to ask about increasing his broadband allowance.

During the discussion, the provider's representative offered the customer a new package deal that included a higher broadband allowance, plus a free modem if he signed up to a 24-month contract. However, the package didn't provide the unlimited calling to a designated overseas country that was included in the customer's original plan.

According to the customer, he made it clear that, because he wanted to keep the unlimited calling feature, he wasn't prepared to change plans. He was left with the impression that he'd extended his broadband allowance for a few extra dollars a month and that this entitled him to the free modem. He did not believe that he'd changed his plan or agreed to a 24-month contract. He later complained to TDR because his provider advised him that he had agreed to the new plan and contract, and because of this had been sent the free modem.

During the conciliation process, the provider acknowledged that there had been a misunderstanding and offered to cancel the contract as long as the modem was returned. The customer was keen to cancel but believed that as the modem had been offered free, he should be able to keep it. The parties eventually agreed to a workable compromise: the customer would keep the modem on a reduced 12-month contract.

*Be careful
when signing
new contracts*

Determinations

Adjudication is the final level in TDR's dispute-resolution process. It's reached when the three preceding levels have failed to produce a solution satisfactory to both the customer and the provider.

TDR's adjudicators provide a professional, independent service, contributing extensive skills and experience in advanced legal and statutory interpretation, analysis and reasoning. Having considered all the information available, they are responsible for making final decisions ('determinations') on disputes, which are binding on the telecommunication providers concerned.

The following determinations are loosely based on disputes adjudicated by TDR during 2009. All identifying information has been removed.

Incorrect information

The dispute

A dispute between Mr X and Provider Y related to the provision of incorrect information.

Provider Y had written to Mr X offering broadband services and a home phone line package. In a subsequent phone call, and after Provider Y had confirmed to Mr X that broadband services were available for connection at his home, Mr X accepted the offer of a 12-month contract.

It transpired that broadband services were not available to Mr X's home – a fact only confirmed after a number of frustrating and time-consuming communications between Mr X and Provider Y (in which Provider Y consistently maintained that the 'fault' was on Mr X's property and would require a technician's visit at his expense).

The determination

The adjudicator found that Provider Y had breached the New Zealand Telecommunication Carriers' Forum Customer Complaints Code – notably its requirement that all information provided to a customer be accurate and up to date.

The determination stated:

"While I appreciate that in reality the availability of broadband services is dependent on a range of factors, [Provider Y's] communications with [Mr X] should have been clearer to express that fact. [Provider Y] could for example have advised that broadband services 'may' be available, but that further enquiry would be required to confirm whether the services could in fact be provided for its customer."

Service transfer issues

The dispute

A dispute between Mr A and Provider B related to transferring phone and internet services to Mr A's new business property.

Mr A advised Provider B that he'd need the services transferred on a specific date. He was told there'd be no problems with the transfer as long as his account payments were up to date and the phone line at the new property was disconnected.

“I am very grateful to have things resolved to such a positive outcome.”

In fact the transfer wasn't completed until six days after the specified date. According to Provider B, this was because the phone line had remained connected at the new property until then, and in any case it had completed the transfer within the timeframe it had advised to Mr A.

According to Mr A, his business was significantly affected as bookings were made by email; he had incurred penalties on late payments ordinarily made via the internet; and while waiting for the new connection he'd had to make calls on his mobile phone, which cost him about \$2,500.

The determination

The adjudicator was satisfied that Provider B's delay in this case was not unreasonable given the circumstances.

The determination stated: “A delay of three-five working days to install a telephone line does not seem unreasonable, and indeed [Mr A's] connection did occur within that timeframe. It follows that I am not satisfied there has been any unreasonable delay in [Provider B] providing [Mr A] with their telephone services...

“It [also] follows that there would be no liability on the part of [Provider B]... Even if that were not the case, I find the provision within [Provider B's] contract in relation to its limitation of liability... would apply.”

The adjudicator did comment that some information Provider B supplied had not met the Customer Complaints Code's requirement that communications from Scheme Members be accurate and up to date. “The appropriate remedy is a written apology from [Provider B].”

Broadband roaming charges

The dispute

A dispute between Mr Y and Provider Z related to Provider Z's charges for the use of broadband roaming services incurred overseas.

Mr Y bought a data card specifically for accessing emails from his laptop while overseas, and signed a 24-month contract with Provider Z. He subsequently used the card on a roaming basis – and on his return to New Zealand received an account from Provider Z for about \$8,000.

Mr Y complained that the data card salesperson had misrepresented the charges for overseas use, saying they were ‘a little more expensive’ or ‘slightly higher’ than using the card locally. He argued that the salesperson should have warned him about the potentially ‘extremely’ high charges.

Provider Z accepted responsibility for the salesperson's advice, but said Mr Y hadn't been able to prove that he'd been given incorrect or misleading advice. It said he could have visited its website and checked the potential prices before he travelled.

The determination

The adjudicator found that, as Mr Y had advised the salesperson that the data card was for use overseas, the salesperson had been on notice to provide accurate information in relation to this purpose. “Even on an extremely generous view, it could not be said a charge of around 600 times more than would be incurred in New Zealand was ‘slightly higher’.”

The adjudicator determined that Provider Z had:

- breached the Fair Trading Act 1986, as Mr Y had been misled in the representation of the service to which he was signing up
- breached the Customer Complaints Code, which requires all information provided to a customer to be accurate and up to date.

He found that Mr Y should not be liable for the entire \$8,000 account, and directed that Provider Z credit his account to leave a debt of \$1,000.

Lost or stolen SIM cards

The dispute

A dispute between Mr L and Provider M related to roaming charges that resulted from the unauthorised use of a lost or stolen SIM card.

Mr L signed a contract with Provider M for the provision of a mobile phone and services that included roaming. While travelling overseas, he removed the phone's SIM card and replaced it with a locally purchased card.

When he returned to New Zealand he noticed the SIM card was missing, so returned to Provider M for a replacement. He then discovered that the card had been used by an unauthorised person overseas – resulting in a mobile phone account for more than \$11,000.

Mr L's complaint was that he shouldn't be held responsible for the unauthorised calls. Provider M responded that its terms and conditions required Mr L to keep his SIM card secure and to pay all the roaming charges associated with the card.

The determination

The adjudicator commented that, according to the evidence, Mr L had freely and voluntarily entered a valid and binding contract with Provider M. This contract held him liable for all charges incurred from using the SIM card, irrespective of who used it and whether they were authorised.

The adjudicator also found that Mr L had breached the contract's SIM card security requirements, and should have notified Provider M sooner that it was missing. He determined that Provider M hadn't breached the Customer Complaints Code or its obligations under the contract with Mr L, and that no remedies were available to Mr L from this complaint.

Early termination charges

The dispute

A dispute between Mr C and Provider D related to incorrect or inadequate advice about charges for early termination.

Mr C entered a 12-month contract in which Provider D was to supply phone services for three phones. Less than a month later, he notified Provider D that he'd signed up with another provider and wished to cancel his current contract. Provider D advised Mr C that he was therefore liable for an early termination charge of almost \$2,000.

Mr C complained that Provider D had not made it clear that there were early termination charges, and that the terms of agreement he'd received by fax had been unreadable. He also said that when the charges had become clear he'd offered to honour the 12-month contract, but Provider D had turned him down.

In response, Provider D maintained that the terms of agreement clearly set out the consequences of early termination, and that Mr C's switch-back offer had not been received until six months after the termination charges were applied.

The determination

Having assessed the dispute against the Customer Complaints Code and the Fair Trading Act 1986, the adjudicator commented that:

- although the faxed terms of agreement were of poor quality, they were not unreadable (there was also no evidence that Mr C had requested a clear copy)
- in signing the application form and terms of agreement, Mr C had entered a valid contract with Provider D.

The determination concluded that there had been no breach of the Code or Fair Trading Act, there had been a clear cancellation of the contract, and Provider D had not been required to reinstate it. Mr C was therefore unsuccessful with his complaint.

"The appropriate remedy is a written apology"

Key indicators

January to December 2009

Jobs started in period

Number of non-relevant jobs received	1,000
Number of level 1 jobs received	621
Total new jobs received	1,621

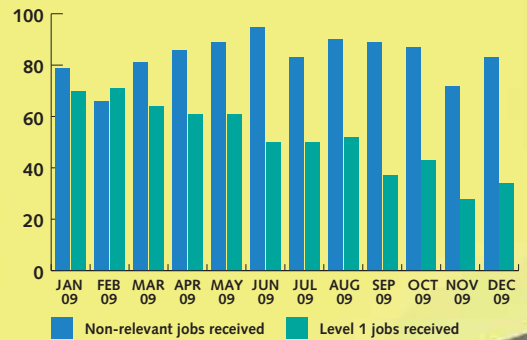
Jobs on hand (as at 31 December 2009)

Number of jobs at level 1	17
Number of jobs at level 2	7
Number of jobs at level 3	3
Number of jobs at level 4	4
Total number of jobs on hand	31

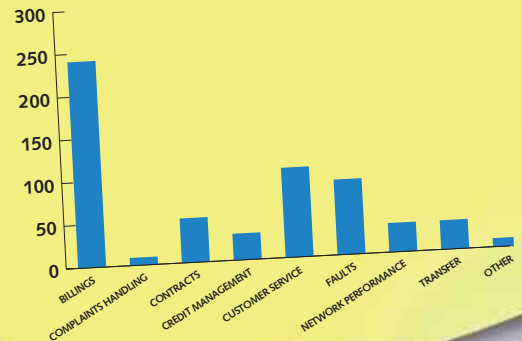
Resolved jobs by issues category

Billings	241
Complaints handling	9
Contracts	52
Credit management	31
Customer service	105
Faults	88
Network performance	34
Transfer	34
Other	10
Total number of jobs completed	604

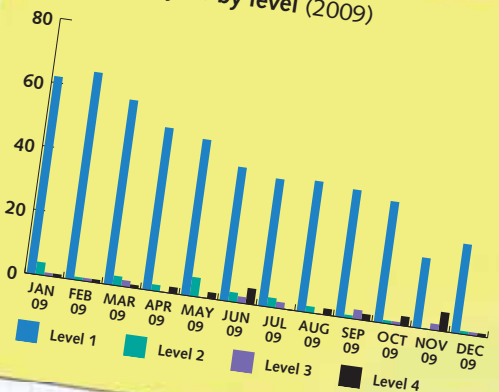
Jobs started (2009)



Resolved jobs by category (2009)



Resolved jobs by level (2009)



TDR Service Level report (2009)

Achievement targets relating to the speed of response to customers' complaints, the speed of resolution and the type of resolution have been agreed as measures of TDR's performance. The following tables and charts detail the actual performance against the targets.

Early resolution Service Level Indicator

Dispute resolved	Number resolved	% resolved	Target
Level 1	536	89%	75%
Level 2	27	4%	18%
Level 3	15	2%	6%
Level 4	26	4%	1%
Total	604		

Timeliness Service Level Indicator

Dispute resolved	Number resolved	Number resolved within target	% resolved	Target
Level 1	536	511	95%	100% in 8 business hours
Level 2	27	25	93%	75% in 32 working days
Level 3	15	13	87%	75% in 50 working days
Level 4	26	18	69%	100% in 16 working days
Total	604	567	94%	

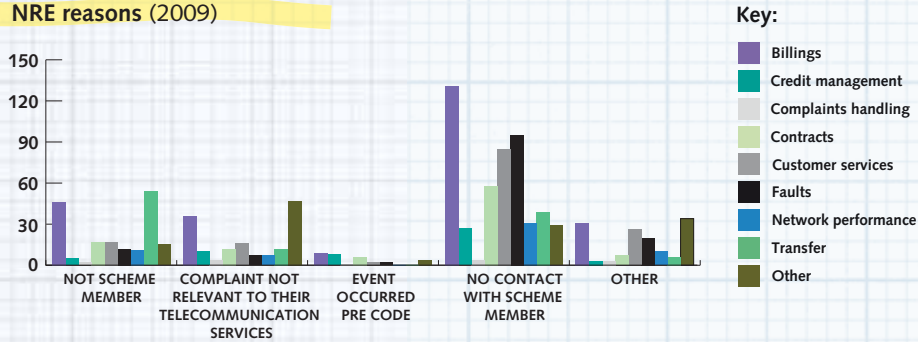
Telephony Service Level Indicator

	% answered within target	Target
Answered calls	90%	80% within 20 seconds
Abandoned calls	3.8%	<5% on any given day

Reasons for NRE* and no jurisdiction

* Non-relevant enquiries

NRE reasons (2009)



No jurisdiction* (2009)

Privacy	1
Pricing	3
Frivolous/Vexatious/Trivial	1
Timed out (past 12 mths from initial contact with Scheme Member)	1
Scheme Member Pre Compliance	3
Non supported service/equipment	3
Network coverage	2
Outside Scheme Member legal responsibility	1
Domain names	1
Compensation > \$12k	3
Information request	1
No deadlock	496
Other	5
Sub Totals	521
No authority to act	8
Total	529

* Excluded under the Customer Complaints Code

Scheme billings

January to December 2009

Scheme billings	\$718,500
Level 3 & 4 User Pays fees	\$20,400
Total	\$738,900

\$718,500

\$20,400

\$738,900

Notes:

1. The Scheme billings include a contingency provision.
2. Scheme Members were billed according to their proportional share of the monthly overhead of approximately \$59,000 based on the number of complaints received in relation to each Scheme Member.
3. Scheme Members were billed \$500 in User Pays fees per level for each complaint that progressed to Levels 3 and 4.

2010

TDR Business Plan summary



The Telecommunication Dispute Resolution (TDR) Scheme has now been in operation for more than two years. This Business Plan comments on the trend observed in call volumes and identifies issues facing the operation and effectiveness of the Scheme. New strategies and business-as-usual activities are identified to promote awareness of the Scheme, improve business accountability and ensure a quality service is delivered on an ongoing basis.

While the number of calls has increased since the Scheme commenced on 30 November 2007, and is now around 1600 per annum, this is made up of almost 60% of non-relevant enquiries (NREs). The number of resolved jobs has shown a gradual decline from approximately 80 per month in March 2008 to 40 per month in October 2009. For this reason Scheme awareness and accessibility are key objectives of the Business Plan and individual activities and targets are identified against this key objective.

Revenue for the 12 months ending 31 December 2009 is \$613,900 (excluding contingency). This comprises \$20,400 User Pays fees and \$593,500 Scheme overheads. Budgeted revenue for the same period was \$647,000.

The Scheme Agent has engaged a Finance Manager to augment the financial services previously provided to the Scheme. This will help to strengthen the financial management and reporting function of the Scheme Agent.

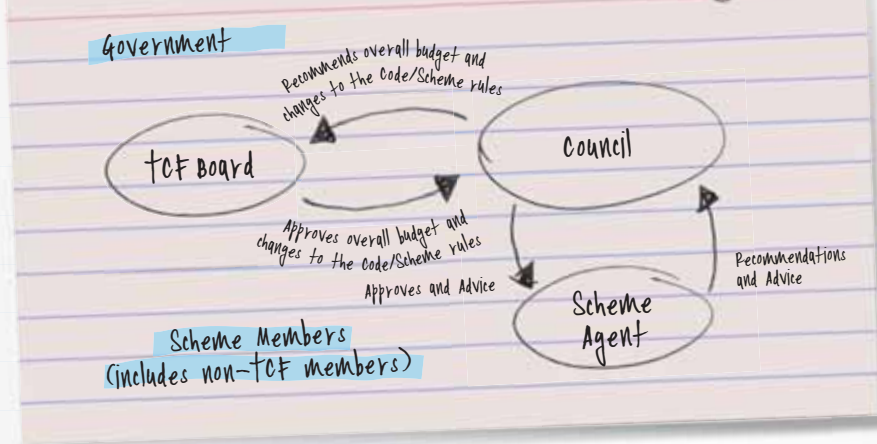
This Business Plan forecasts total Scheme costs of \$772,000 for 2010, of which \$50,000 will be held by the Telecommunications Carriers' Forum (TCF). It is recommended that the next Business Plan (2011) be based on a longer-term view of Scheme operation, with a three-year outlook in terms of targets and budget.

Under clause 6.1(o) of the Scheme's Terms of Reference the Council has instigated a review of the Scheme with the primary objective of determining the desirability of independence from the TCF. The review will also cover the Scheme's operation and effectiveness. Any changes to the Scheme recommended as a result of this review may have an impact on the Scheme and its management. In such circumstances it is given that the strategies and budgets of this Business Plan may change.

Statement of purpose

The TDR Scheme core values are the six benchmarks established in 1997 by the Australian Department of Industry, Science and Tourism in its publication, 'Benchmarks for Industry-Based Customer Dispute Resolution Schemes'. These benchmarks are Australasian industry best practice and were used as the guiding principles in the development of the TDR. The vision is based on the Scheme Terms of Reference and incorporates the Scheme values.

Figure 1 TDR Scheme Governance



Values

Accessibility, independence, fairness, accountability, efficiency and effectiveness.

Vision

- To be recognised by telecommunications customers as the preferred external option in helping to resolve disputes with their telecommunication service providers.
- To be recognised as fair and independent.
- To be well known by, and accessible and responsive to, the needs of telecommunications customers in New Zealand.
- To encourage Scheme Members to resolve customer complaints effectively themselves.
- To educate the industry about systemic issues arising from disputes and determinations.

Governance

The TDR Scheme was set up by the TCF. This is a collective of telecommunication companies that operate in New Zealand. The Forum developed the Customer Complaints Code and the Terms of Reference that are the basis of the TDR Scheme, and set up the TDR service as an independent body for the prompt, unbiased resolution of disputes. The service started operating on 30 November 2007.

The Scheme reports to a governing Council. The Council is made up of 50% Scheme Members and 50% consumer representatives. The current members of the Council are listed on the TCF website (this is in the process of being updated).

The Scheme sets out the rights of customers and the obligations of Scheme Members regarding the handling of disputes, or complaints that have not been resolved through the Members' usual complaints processes. Scheme Members agree to be bound by the terms of the Scheme and Code, and only customers of Scheme Members can lodge disputes with TDR.

Customers and Scheme Members must follow the processes set out in the Customer Complaints Code, before customers can take complaints to TDR.

The governance structure is set out in Figure 1 above.



TDR Service Profile

The TDR service is managed and provided by Dispute Resolution Services Ltd (DRSL). DRSL is a nationwide company that has been operating since 1999. It resolves more disputes than any other company in the country, and is involved in disputes of all kinds and all levels of complexity – including medical, insurance, disability, employment and commercial. The company is also ISO 9001 compliant.

DRSL was appointed in July 2007 as the Scheme Agent to set up and manage the TDR service.

Budget

User Pays fees:

The 2010 plan assumes there will be no separate User Pays fees for Levels 1 and 2. The User Pays fees for Levels 3 and 4 will be \$500 for each level. These are estimated to account for \$26,000 in total.

Scheme overhead fees:

<u>Item</u>	<u>2010 amount (\$) Plan</u>
<u>Publications – design & production</u>	<u>10,000</u>
<u>Promotional</u>	<u>15,000</u>
<u>Market research, benchmarking & analysis</u>	<u>20,500</u>
<u>Public relations</u>	<u>18,500</u>
<u>Salaries & relationship management</u>	<u>395,000</u>
<u>Contract personnel</u>	<u>26,000</u>
<u>Recruitment and staff training</u>	<u>15,000</u>
<u>Communication cost</u>	<u>18,505</u>
<u>Travel, accommodation – relationship management</u>	<u>15,000</u>
<u>Scheme Member training</u>	<u>9,000</u>
<u>Office accommodation, infrastructure, support</u>	<u>115,495</u>
<u>Committee fees</u>	<u>40,000</u>
<u>Depreciation</u>	<u>24,000</u>
<u>Total overhead</u>	<u>722,000</u>

Total cost structure can be summarised as follows:

<u>Total operating cost (excluding contingency)</u>	<u>722,000</u>
<u>Contingency provision</u>	<u>50,000</u>
<u>Total operating cost (including contingency)</u>	<u>772,000</u>

Glossary

Non-relevant enquiry (NRE) – an enquiry that is not attributable to a Scheme Member, does not relate to a customer's telecommunication service or relates to an event that occurred before the commencement of the Scheme on 30 November 2007

Level 1 – TDR establishes whether deadlock has been reached (deadlock = when the end of the company's internal complaints procedure has been reached, or six weeks have passed since the customer made a complaint, and there is no resolution)

Level 2 – TDR facilitates negotiation between the customer and the company through exchange of documents

Level 3 – conciliation – a TDR conciliator works with both parties to achieve a mutually acceptable outcome

Level 4 – adjudication – a TDR adjudicator considers all the information available and delivers a fully reasoned written decision that is binding on the company

If you have any questions or concerns about your current services and would like to discuss them with your service provider, or you would like to sign up with one of the companies that belong to this Scheme, please see their contact details below:

Airnet	0508 247 638
Communitel	0508 266 686
Digital Island	0800 999 010
Igrin	0800 244 746
Kordia	09 916 6400
Orcon	0800 131 415
Snap	0800 500 638
Telecom	Call 123 or *123 (mobile)
TelstraClear	0508 888 800
TNZ Group	0 52 8246323666
Vodafone	0800 800 021

“I must say that you
guys rock; very fast
and efficient service.”

Level 9, 109 Featherston Street
PO Box 2272, Wellington 6140
www.tdr.org.nz

Freephone 0508 98 98 98