

# Appendix 4

## Regulatory bodies

The role of industry self-regulation increased under the 1997 reforms, with the industry being made responsible for the development and administration of access arrangements, technical standards and consumer codes. The key features of the regulatory environment are:

- The Australian Communications Authority (ACA), established in 1997, which regulates technical and consumer issues in telecommunications and radiocommunications. It was formed from AUSTEL and the Spectrum Management Agency (SMA).
- The Australian Competition and Consumer Commission (ACCC), which handles competition regulation. This function was transferred from AUSTEL in 1997.
- Industry self-regulatory bodies: the Australian Communications Industry Forum (ACIF), which handles technical standards and consumer issues, established in 1997. And, the Telecommunications Industry Ombudsman (TIO), a company formed by the industry to handle consumer and small business complaints. The TIO's jurisdiction and powers were expanded significantly in 1997.<sup>1</sup>

### *Australian Communications Authority (ACA)*

The ACA was established under the *Australian Communications Authority Act 1997* to regulate the Australian communication industry under the *Telecommunications Act (TA)*, the *Radiocommunications Act 1992 (RA)*, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and a range of related legislation.<sup>2</sup> The role of the ACA is to:

- Administer the TA and RA
- Report to and advise the minister on telecommunications and radiocommunications issues
- Manage Australia's input into international standards-setting processes

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1 Alasdair Grant, Industry Structure and Regulatory Bodies, in *Australian Telecommunications Regulation (3ed.)* Alasdair Grant (ed.) (ed.), UNSW Press, 2004, p.45.

2 Department of Communications, Information Technology and the Arts, *Connecting Australia. Report of the Telecommunications Service Inquiry*, 2000, p. 27.

- Inform, advise and educate the public about relevant issues
- Provide facilities or services on a commercial basis.<sup>3</sup>

The ACA has powers to conduct public inquiries and investigations into the carriage of services and service content or if it suspects a contravention of the TA. The ACA must make its findings public. However, it has the authority to withhold publication if disclosure would adversely affect a trial, make public personal information, or confidential material.

The ACA has the powers to refer matters under investigation to the ACCC, the TIO or any other body it considers appropriate. It can also apply to the Federal Court to issue mandatory injunctions relating to infringement of the TA.

### ***Australian Competition and Consumer Commission (ACCC)***

The ACCC is a Commonwealth statutory authority which administers the economic and competition aspects of the telecommunications regulation, primarily under the *Trade Practices Act 1974* (TPA). It regulates anti-competitive behaviour under Part XIB and access regime under Part XIC of the TPA. The ACCC is also responsible for industry specific legislative provision under TA and arbitrates disputes over Telstra price controls, network access, service and physical infrastructure.<sup>4</sup>

### ***Australian Communications Industry Forum (ACIF)***

The ACIF, established in June 1997, is the peak self-regulatory body for the development of consumer codes, operational codes and technical standards. Membership to ACIF is open to all participants in the communications industry, to ensure that TA requirements for industry consultation in code development are met. The board of directors, drawn from carriers, service providers, industry groups and consumer and user groups, oversee the process of code and standard development. The development of codes and standards occurs via reference panels and working committees, which are formed from ACIF's members.

### ***Telecommunications Industry Ombudsman (TIO)***

The TIO was established in 1993 and was mandated under TA (1991) to resolve disputes between telecommunications companies and individual or small business consumers. TA (1997) enhanced the jurisdiction of the TIO to include resolution disputes involving Internet Service Providers (ISPs). The TIO is an independent,

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3 Alasdair Grant, *Industry Structure and Regulatory Bodies*, in *Australian Telecommunications Regulation (3ed.)* Alasdair Grant (ed.), UNSW Press, 2004, p.45.

4 Alasdair Grant, *Industry Structure and Regulatory Bodies*, in *Australian Telecommunications Regulation (3ed.)* Alasdair Grant (ed.), UNSW Press, 2004, p.47.

industry-sponsored body, which all telecommunications industry participants are required to join under the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.<sup>5</sup>

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5 Department of Communications, Information Technology and the Arts, *Connecting Australia. Report of the Telecommunications Service Inquiry*, 2000, p. 28.