PLEASE NOTE THAT A NUMBER OF THE OMBUDSMAN SCHEMES CITED IN THIS PAPER HAVE, SINCE IT WAS WRITTEN IN 2003, CHANGED THEIR GOVERNANCE STRUCTURE AND/OR MERGED WITH OTHER SCHEMES.

THE THEMES COVERED IN THE PAPER REMAIN HIGHLY RELEVANT IN ILLUSTRATING THE VALUE OF AN INDUSTRY-BASED OMBUDSMAN OFFICE.

Setting the scene Industry-based customer dispute resolution schemes

presented by

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"ADR - A better way to do business'

Industry-based customer dispute resolution

When Australian customers cannot resolves disputes directly with their industry and commerce service providers, they most commonly turn to an industry-based ADR scheme. While industry-based schemes are described as an alternative to the court system, in reality, for many people for whom financial considerations put court action out of reach, they are the only option.

Eight of Australia's longest established and largest industry-based schemes have combined to present this NADRAC session -

- the Banking and Financial Services Ombudsman (BFSO) [formerly the Australian Banking Industry Ombudsman (ABIO)]
- the Telecommunications Industry Ombudsman (TIO)
- Insurance Enquiries and Complaints Ltd (IEC)
- the Financial Industry Complaints Service (FICS)
- and from the network of Energy and Water Ombudsman schemes across Australia
    - the Energy and Water Ombudsman (Victoria) (EWOV)
    - the Energy and Water Ombudsman NSW (EWON)
    - the Tasmanian Electricity Ombudsman (TEO)
    - the Electricity Industry Ombudsman South Australia (EIOSA)

We will cover -

- The history and evolution of industry-based customer dispute resolution schemes in Australia
- Their role in regulatory compliance
- The value-add to Australian commerce and industry
- ADR practice and methodology in our schemes
- The critical link between external ADR schemes and internal business complaint handling processes
- The current status of our schemes and some emerging issues

To set the scene - our schemes have been set up by specific industries to resolve complaints about that industry's products or services. We offer free, independent (objective), just, informal (non-legalistic) and speedy resolution of customer complaints.

Together we -

- Handle over 250,000 individual contacts annually, the vast majority of these from residential and retail customers.

- Deal with issues which directly affect the quality of the lives of ordinary people: necessities such as electricity, water, gas and telephone; access to savings; home or business purchases; investing for their future; and their personal disability, home and business insurance safety nets.

- Manage combined budgets of over $25 million.

- Operate in both the private and public sectors, with our Members including Australia's largest banks, telecommunications companies, electricity, gas and water utilities, insurers, financial planners, stockbrokers, investment managers and a plethora of smaller enterprises.

- Deal first and foremost in what is "fair and reasonable".

- Make decisions that are binding on our Members.

National Benchmarks

For an ADR scheme to be successful, there must be confidence that its dispute resolution process and decision-making are impartial, and of the highest quality.

A template for the operation of industry-based schemes is the *"Benchmarks for Industry-Based Customer Dispute Resolution Schemes"* (the National Benchmarks).[1] Published in August 1997, it sets standards that ensure industry-based schemes are independent, accountable and effective. All of our schemes have regard to the National Benchmarks, some having formally adopted them at Board level, others by way of their scheme's approval by the Australian Securities and Investments Commission (ASIC)[2].

The National Benchmarks document is essentially a 'best practice' guide for industry-based schemes. It sets out key practices, within the following set of underlying principles -

- *Accessibility* - the scheme makes itself readily available to customers by promoting knowledge of its existence, being easy to use and having no cost barriers.
- *Independence* - the decision-making process and administration of the scheme are independent from scheme Members.
- *Fairness* - the scheme produces decisions, which are fair and seen to be fair by observing the principles of procedural fairness, by making decisions on the information before it and by having specific criteria upon which its decisions are based.
- *Accountability* - the scheme publicly accounts for its operations, by publishing its determinations and information about complaints, and highlighting any systemic industry problems.
- *Efficiency* - the scheme operates by keeping track of complaints, ensuring they're dealt with by the appropriate process or forum, and regularly reviewing its performance.
- *Effectiveness* - the scheme is effective by having appropriate and comprehensive terms of reference and periodic independent reviews of its performance.

[1] *"Benchmarks for Industry-Based CustomerDispute Resolution Schemes"* (National Benchmarks) can be accessed in the publications section of the Commonwealth Department of Treasury's website http://www.treasury.gov.au.
[2] ASIC, PS 139 Approval of External Complaint Resolution Schemes

History

The establishment of industry-based schemes has been actively supported by the Australian Government. Its view has been that such schemes make good business sense, since they -

- result in improved business practices and the creation of better quality goods and services for customers;
- enable industry to ascertain the problems faced by their customers and take steps to rectify these, negating the need for government intervention; and
- play a vital role as an alternative to expensive legal action for both customers and industry[3].

As you will see, we agree.

While the history of industry-based customer ADR schemes in this country is relatively short, Australia has certainly made its mark, with schemes that are highly regarded world-wide for setting best practice, and some that were world firsts.

And, having shown that we have the capacity to deliver fair and independent dispute resolution, our schemes are also highly regarded by consumer groups. Indeed, consumer activism played a significant role in our establishment. As we'll explore further in the context of individual schemes, strong lobbying by consumer groups over the last two decades created significant pressure on Governments.

The aims were to ensure that customers are protected, in situations where service providers inherently have the greater relative economic power, and to make industry accountable for its actions in dealing with customers and addressing their concerns.

For their part, the banking, telecommunications, insurance, utilities and investment industries, acknowledged the deficiencies in this respect, and correctly sensed that consumer pressure would inevitably lead to greater government regulation. They responded by implementing processes that would help satisfy consumer groups, while improving their own image in the community generally.

Many of these consumer groups remain associated with the various schemes today, by way of their membership on scheme Boards and Councils.

Banking and Financial Services Ombudsman

Australia's first industry-based, independent, ADR scheme was the Australian Banking Industry Ombudsman (ABIO). Launched in 1989, the scheme's establishment was guided to some extent by the success of a similar scheme set up by the banking industry in the United Kingdom in 1987.[4]

Also influential in ABIO's establishment were the concerns of consumer groups, in the wake of the deregulation of the banking industry and the 1987 collapse of some

[3] National Benchmarks, ibid
[4] The Australian Banking Industry Ombudsman Annual Report 2000

financial institutions. It was at a meeting of the National Consumer Affairs Advisory Council in April 1988, that the concept of a banking ombudsman was first floated. It then became the subject of discussions between the banks, the Australian Bankers' Association, consumer groups and the federal government.[5]

ABIO was one of two major bank responses aimed at addressing consumer concerns at that time. The second was the release of a voluntary Code of Banking Practice developed by the banks in 1993. The scheme is linked to that Code by way of a requirement on the banks to provide personal customers with a free, external and independent process for resolving disputes.

Although taking some guidance from the UK scheme, ABIO was very much a pioneering scheme for Australia. As the inaugural Banking Ombudsman observed, after two years of the scheme's operation, *"the dimensions of the job were unclear; there was no way to predict the volume of complaints, the reaction of the public and the banks, or the types of issues that would emerge."*

The scheme began taking complaints in June 1990. It presently has 24 Member banks, and in August 2003 changed its name to the Banking and Financial Services Ombudsman (BFSO). This change reflects the fact that many of the scheme's Members are promoting the notion that they are active in the financial services market, or are associated with others in this market.

Since 1998, the scheme has accepted complaints from small business[6] customers. And, since March 2002, it has been able to consider disputes about the whole of a banking group, rather than just the bank itself.

Also operating out of the Banking Ombudsman's offices is the Credit Union Dispute Resolution Centre (CUDRC), set up in November 1996, and funded by participating credit unions. CUDRC provides dispute resolution services for credit union Members, in much the same way as do the other financial services industry schemes.

Insurance Enquiries and Complaints Ltd

The national General Insurance Enquiries and Complaints Scheme, today commonly known as Insurance Enquiries and Complaints Ltd (IEC), was developed by the Insurance Council of Australia (ICA). Its role is to resolve disputes between insurance companies and those who are insured, as well as uninsured claimants who have a dispute with another person's insurance company, in relation to motor vehicle property (ie. a third party claim). It also provides free advice and information about any general insurance matter.

The evolution of the scheme was not quite as straightforward as for some of the other industry schemes. During the 1980s, consumer dissatisfaction with the insurance industry grew, initially to do with life insurance, but soon developing to include general insurance. Once again, consumer groups called for an industry ombudsman, and an industry code of practice, their lobbying heightened by the launch of the banking ombudsman scheme in 1989.

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[5] In the Consumer Interest, A selected history of consumer affairs in Australia 1945 - 2000, S Smith (Editor)
[6] "small" being defined by the type of business and number of employees

Aware that the Federal Government was preparing to legislate for an ADR scheme for the insurance industry, and to put in place a mandatory code of practice, the ICA set up a three person industry-based General Insurance Claims Review Panel in May 1991. It is recorded that the consumer movement was sceptical, however, as to

whether a Panel scheme, seen by it as an ICA Committee, housed in the same building as the ICA and using ICA facilities, would really be independent of the ICA and the industry.[7]

At the time the Panel was launched, an independent overseeing body was also set up - the Insurance Industry Complaints Council (IICC). The Council had equal representation of consumer and industry representatives, and an independent chair. Essentially its role was to oversee the Panel's activities and provide the necessary separation between the Panel and the ICA.

However, concerns soon grew that the dispute resolution function should be seen to be at arm's length from the ICA. As a result, in 1993, an incorporated body, IEC Ltd, was set up to employ the scheme's panels, consumer consultants, general manager and other staff. IEC Ltd was accountable to the IICC, which also provided its budget.

Within a couple of years, when duplication between the roles of IEC Ltd and the IICC became evident, it was decided that the IICC would be dissolved. It was replaced in 1997 by IEC Ltd, a company limited by guarantee, which acts as the secretariat to the scheme. IEC has 83 Members, all general insurers.

IEC also has the wider role of administering industry codes of practice - the General Insurance Code of Practice that came into being in July 1995, and the General Insurance Information Privacy Code, approved by the Privacy Commissioner in April 2002 as the first industry Privacy Code.

Financial Industry Complaints Service

The Financial Industry Complaints Service (FICS) is the ADR body for the financial services industry. It commenced operations as the Life Insurance Complaints Review Committee in 1991, joining with the Life Insurance Federation of Australia (LIFA) Inquiries and Complaints Service.

Following an independent review of the Scheme in 1993, the Committee integrated with the LIFA Inquiries and Complaints Service to become the Life Insurance Complaints Board. It changed its name to the Life Insurance Complaints Service when it incorporated in 1995. In September 1999, the Service changed its name to the Financial Industry Complaints Service.

In late 1999, responsible entities under the *Managed Investment Act* joined the scheme. This was followed by the integration of the Financial Services Complaints Resolution Scheme (which dealt with complaints about financial planners and stockbrokers), from January 2000.

[7] The General Insurance Enquiries and Complaints Scheme: The First Ten Years, J Isaac, 2001

Following the passage of the *Financial Services Reform Act* 2001, with its commencement date of March 2002, many more financial service providers dealing with retail clients are required to join an external complaints resolution scheme. There is a two-year transition period for these reforms. FICS has now agreed to deal with complaints about Friendly Societies, and is also taking on a broader membership in the investments area, including, for example, futures dealers.

Thus, from an organisation dealing with complaints in the life insurance industry, FICS has expanded to deal with complaints in the financial services industry, specifically complaints about life insurance, financial planning, stockbroking, managed investments and other providers of investment advice and services. It also deals with personal superannuation products sold by life insurance companies (other superannuation disputes being dealt with by the Federal Government's Superannuation Complaints Tribunal).

It's therefore not surprising that FICS' 2,000 Members are very diverse, and range from life insurers, financial planners, stockbrokers, large and small fund managers and friendly societies, to debenture issuers, futures dealers, timeshare schemes and racehorse syndicates.

Telecommunications Industry Ombudsman

The 1980s and 1900s also saw enormous changes in Australia's telecommunications industry. Until Telstra was corporatised, complaints about it were lodged with the Commonwealth Ombudsman. After corporatisation, this was considered less appropriate. On top of this, there was the entry of new industry players, Optus and Vodafone, over which the Commonwealth Ombudsman didn't have jurisdiction.

Government intervention saw the emergence of an independent body to handle complaints made by residential and small business customers of telecommunications services. Set up in late 1993 as a carrier licence condition, the Telecommunications Industry Ombudsman (TIO) was a telecommunications world first.

Although a company limited by guarantee, the TIO's existence is required by legislation, and its role is specified in the *Telecommunications (Consumer Protection and Service Standards) Act 1999.* Membership, and compliance with the scheme, is a statutory requirement (via this Act) for companies in the telecommunications industry which supply the standard telephone service, a public mobile telecommunications service, or a service which allows an end-user to access the internet.

The TIO has some 963 Members -10% of these being carriers or telephone service providers, 79% internet service providers, 7% telephone and internet service providers (ISPs), and 4 % wholesalers. They range in size and nature from the still predominantly government-owned national carrier Telstra, to small private ISPs. The industry regulator, the Australian Communications Authority (ACA) can also make a determination about new providers who should be TIO Members.

The TIO takes complaints about the provision or supply of (or the failure to provide or supply) telephone, internet and mobile phone services, including complaints about billing, provisioning, faults and credit management.

During 2002, its jurisdiction was expanded to cover faulty handsets sold as part of a contractual 'bundle' of mobile telecommunications services. The significance of this amendment lies in the recognition that the 'bundling of services' brings significant issues for customers.

This is an important emerging issue across several of our schemes, and it is explored in more detail later in this paper.

Energy and water schemes

Just as the 1980s into the 1990s saw great changes to the telecommunications industry, the mid-late 1990s into 2000 and beyond have brought similar changes to the electricity and gas industries in the southern states, and to a lesser degree the water industry.

In 1995, the Electricity Industry Ombudsman (Victoria) (EIOV), the world's first such scheme, was launched during a period when the Victorian Government was undertaking a major restructure of its electricity industry. New regulatory arrangements were in place, the new electricity businesses were being prepared for sale, and there was strong lobbying from consumer groups for appropriate and effective consumer protection mechanisms.

Encouraged by the industry regulator to be proactive in addressing the issue of dispute resolution, the electricity industry moved to establish an industry-based scheme, in the same way as the telecommunications and banking/financial services industries had already done. EIOV commenced full operation in May 1996.

Early on, consumer groups and the industry regulator recognised that EIOV had the potential to provide a foundation for a broader utilities ombudsman scheme across the Victorian electricity, gas and water industries. In 1999, the Victorian gas industry joined the scheme, and in 2001, the Victorian water industry also joined. Today it operates as the Energy and Water Ombudsman (Victoria) (EWOV), with 53 electricity, gas and water Members.

It's a condition of the electricity, gas and water licences issued by Victoria's Essential Services Commission (ESC), and of legislative requirements on Victoria's water authorities, that the licensee/authority enters into an ESC-approved customer dispute resolution scheme. Membership of EWOV satisfies these conditions and legal requirements.

Although there have been times that consumer representatives have been highly critical of changes to Victoria's utility industries, it is undoubtedly to EWOV's credit that they have acknowledged its establishment as a positive outcome of privatisation, and indeed

that *"having an Ombudsman dedicated to utilities, with the concomitant expertise, has improved the previous system and can be seen as a benefit of privatisation".*[8] EWOV's success has also seen it used as the model for other energy and water schemes throughout Australia.

The Energy and Water Ombudsman NSW (EWON) was set up in 1998, as an initiative of the restructured, corporatised and newly competing NSW Government-owned electricity companies. Initially an electricity scheme, it later expanded to include gas and water. It presently has 15 Members.

In 2002, EWON saw its most significant membership growth since it began, with the inclusion of newly licensed electricity and gas retailers, electricity and gas marketers, electricity on-sellers (eg. residential parks, boarding houses and strata corporations). All of these new Members are licensed to sell electricity or gas to customers in the competitive energy market.

The Tasmanian Electricity Industry Ombudsman (TEO), followed in 1998, its industry basis established through legislation, by way of the *Electricity Ombudsman Act 1998*. Although co-located with the Tasmanian State Ombudsman, the TEO is a separate statutory agency, with three Members.

The Electricity Industry Ombudsman South Australia (EIOSA) was registered by ASIC in October 1999 as a company limited by guarantee. Launched in August 2000, it presently has coverage of South Australia's electricity industry only. However, this is likely to be extended to include gas and water. EIOSA has three Members, holders of retail, distribution and transmission licences issued under Part 3 of the *Electricity Act 1996.*

In Western Australia, a Gas Industry Ombudsman scheme is currently being developed along the lines of the energy and water schemes in the other states. It's likely to evolve into an energy industry scheme, and possibly develop to include other utilities.

Funding that is industry-derived

Although the funding formula varies from scheme to scheme, the common, basic tenet is that funding derives from each scheme's industry Members. Generally, there is no charge to the customers or affected third parties who use our services, and no cost to the community.

This method of funding provides a financial incentive for our Members to reduce the number of cases that come to us, by resolving customer issues within their own internal complaint handling and escalation processes.

The industry's contribution to the schemes' budgets comes in a variety of ways, sometimes in combination - annual levy, fees for case handling and special levies imposed as necessary.

[8] 1999 Statement from the Consumer Law Centre Victoria (CLCV), a body which has been closely involved with the changes to Victoria's electricity, gas and water industries since 1995.

Governance that assures independence

Although our schemes are industry funded, their independence is assured by way of their governance structures. Among the schemes, there are two governance models - the single Board, and the combination of a Board and a Council.

While there are divergent views on which governance structure might represent best practice, the answer is probably whichever one suits the particular circumstances of each scheme.

TIO

The TIO has a tripartite structure. That is, it has a Council, a Board and an Ombudsman whose independence is guaranteed by the Council. The Council has five industry representatives, five consumer representatives and an independent Chairman. It provides advice to the Ombudsman, on policy and procedural matters.

The TIO Board has corporate governance responsibilities and is responsible for ensuring that the scheme is adequately funded. With the exception of one independent director (appointed by the Board itself), the TIO's Members appoint or elect the directors. A recent review of the TIO Scheme concluded that, on balance, the separate Council and Board structures had been of benefit to the TIO and should continue.[9]

BFSO

Originally, BFSO also had a Board/Council structure. However, in September 2001, its governance structure was changed to that of a single Board, with an independent Chair, two consumer, one small business and three bank representatives. Independence is guaranteed by the Ombudsman's having a reporting relationship to the Board on administrative matters, the majority of whom are non-bankers. The Acting Chairman at that time, welcomed the consolidation saying it would *"assist in streamlining administrative matters, in the interests of both consumers and Members of the Scheme".*[10]

FICS

FICS has a Board of seven - three consumer directors, three industry directors and an independent Chair. Industry directors are appointed by relevant financial services industry associations; consumer directors are appointed by the Board in consultation with relevant consumer organisations; and the Chair is appointed by industry associations, in consultation with the consumer directors. The FICS Constitution sets criteria for ensuring the Chair's independence.

[9] Telecommunications Industry Ombudsman's submission of 18 November 2002, to the Postal Industry Ombudsman (PIO) Discussion Paper

[10] Australian Banking Industry Ombudsman, Annual Report 2001-2002

IEC

IEC's Board consists of an independent Chair, three participating general insurance company Members, the Chief Executive of the Insurance Council of Australia and four persons with experience in consumer affairs.

Energy and water schemes

Although EWOV was originally established along the lines of the TIO, the first review of the scheme in 1997 resulted in the merger of the Council and the Board. EWOV's Board now has four consumer Directors, two electricity industry Directors, one gas industry Director, one water industry Director. The ESC Chairperson appoints the consumer Directors, after consultation with the ESC's Customer Consultative Committee. The independent Board Chairperson is proposed by the Directors, after broad consultation with stakeholders and with the ESC Chairperson in particular. The Chairperson nominee must be voted on by Members at a General Meeting. The EWOV Board appoints, and ensures the independence of, the Ombudsman.

Among the energy and water schemes, it is only EWON that has a tripartite structure. Its Board has governance responsibilities and represents the scheme's electricity, gas and water Members. The EWON Council has an independent chairperson, four industry representatives and four consumer representatives. The Chairman and the consumer representatives are appointed by the Board, on the recommendation of the NSW Minister for Fair Trading. The Ombudsman is appointed by the Board, on the recommendation of the Council.

The EIOSA Board 7 members: three industry Directors; three independent persons nominated by the South Australian Independent Industry Regulator (SAIIR) to represent customers of electricity services, or public interest groups relevant to electricity services; and an independent Chair (appointed by the Directors with SAIIR's approval). The Board is responsible for appointing the Ombudsman.

Whichever governance model has been adopted, a common feature of our schemes is the balance of consumer and industry representation. This enables us to stay in touch with what consumer groups and their constituents are variously saying, experiencing and observing; it keeps us in touch with industry developments; and importantly it puts consumer and industry representatives at the same table, with the opportunity to exchange information and views.

Role of industry-based schemes in regulatory compliance

The primary purpose of industry-based schemes is to resolve complaints within particular industry sectors. We do this by receiving and investigating individual cases.

However, we also play a key role in identifying systemic issues as they arise, and in reporting them, and cases of serious misconduct, to the appropriate regulators. Each of our regulatory links helps ensure that customer concerns are fed directly into the appropriate regulatory system, where change can be effected. These links also help ensure that industry trends are quickly identified, and acted on, especially where they have the capacity to affect groups of customers.

Among our schemes, views differ on the extent to which this reporting responsibility should be part of our role, since there can be a fine line between acting as the 'industry policeman' and 'bringing the industry along in partnership'. It's also important that the regulator, to whose attention systemic issues and cases of misconduct are drawn, is appropriately empowered and resourced to deal with these matters.

Among our schemes, the origin of the responsibility to report systemics and cases of misconduct differs.

TIO

The TIO has strong links with relevant regulatory bodies. These include the Australian Communications Authority (ACA) as the main industry regulator, the Australian Competition and Consumer Commission as the national competition regulator, the Privacy Commission, the Australian Broadcasting Authority, the Department of Communications, Information Technology and the Arts, and various state-based Consumer Affairs/Fair Trading agencies. Through these links, it is able to refer systemic issues affecting a particular Member, or the broader telecommunications industry, as well as matters it doesn't have the jurisdiction to investigate.

Where there is a breach of the scheme, the TIO reports the Member to the ACA, which has the power to take action in the Federal Court.

The Australian Communications Industry Forum (ACIF) was established in 1997 to administer self-regulation in the telecommunications industry. One of its main functions is the development and administration of industry codes. The TIO is linked into this process by way of s 114 of the *Telecommunications Act 1997* which provides that, subject to the Ombudsman's consenting, an industry code or industry standard may confer functions and powers on the TIO.

For two years now, the TIO has dealt with complaints under seven ACIF Consumer Codes and two operational/network codes. Arising from this, it undertakes discussion with the ACA about evident non-compliance. Most recently, discussion has focussed on non-compliance with the Complaint Handling Code, and the TIO's concerns that this reflects generally poor internal dispute resolution efforts within the industry.

The TIO reports quarterly to both the ACA and ACIF on all code breaches and complaints. In addition, the *Telecommunications Act 1997* provides for the ACA to refer a matter to the TIO, and it must consult the TIO before determining, varying or revoking an industry standard.

Further, during or following the investigation of a complaint, the TIO may issue a written certificate stating that a specified carriage service provider has contravened a "Customer Service Guarantee" standard set by the ACA. Interestingly, where the Ombudsman does issue a certificate setting out the performance standards and breaches, the complainant can use it in court. While it can be used as prima facie evidence only, it is nonetheless a potentially powerful tool.

IEC - Code administration

In July 1995, the General Insurance Code of Practice came into being, a voluntary code developed against the background of possible Government action to establish a code by legislation. In 1997, adoption of a code of practice became a licence condition for insurers. IEC has an ongoing role to review compliance with the General Insurance Code, through compliance reporting by insurers and through allegations of non-compliance. The main source of the latter is disputes that come to the scheme for resolution. During 2002, 43 reviews were conducted, resulting in 119 instances of non-compliance. The insurers concerned were required to put remedies in place, as well as take measures to prevent recurrence, within timeframes set by IEC's Code Compliance Committee.

In April 2002, the Privacy Commissioner approved the first industry Privacy Code - the ICA's General Insurance Information Privacy Code. IEC also has the responsibility to monitor and administer this code, including entering into agreements with organisations to adopt it, and conducting individual compliance reviews.

ASIC Reporting

For schemes in the financial services sector (BFSO, IEC, FICS), a relatively recent and significant development was the 1999 release by industry regulator Australian Securities and Investments Commission (ASIC) of its policy guidelines for ADR schemes: *Policy Statement 139 Approval of external complaints resolution schemes (PS 139)*. In releasing PS 139, ASIC's National Director of Regulation stated, *"ASIC's policy will help ensure that consumers and industry have confidence in the decisions made by ADR schemes."*[11]

FICS was ASIC-approved in late 1999, IEC in August 2000 and BFSO in September 2001.

Since these schemes had each been operating (in some cases, in various forms) for almost a decade by the time they were ASIC-approved, and observing the National Benchmarks for much of that time, the application of PS 139 basically reinforced provisions already in place. The main change was the introduction of formal quarterly

[11] ASIC Media Release, 8 July 1999

reporting to ASIC, of statistics and trends, and on systemic issues and cases of serious misconduct as may arise. This also builds on what already existed, since our schemes have always played an important role in investigating systemic financial services problems affecting the community at large, or certain sections of the community.

By way of PS 139[12] an ASIC-approved scheme is required to -

- identify systemic issues and cases of serious misconduct that arise from the consideration of customer complaints;
- refer these matters to the relevant scheme Member, or Members, for response and action; and
- report information about the systemic issue or serious misconduct to ASIC.

There's a general presumption in PS 139 that reports made to ASIC about systemic issues and serious misconduct should identify the relevant scheme Member, or Members. It's recognised, however, that there will be also be issues relating to general industry practice or trends, which don't permit or warrant identification of individual Members.

By arrangement with ASIC, systemic issues may be taken up by the scheme with the Member, or Members, concerned and if satisfactorily resolved, reported to ASIC without names. In this case, the report would describe the issue and the measures taken to resolve it.

Under s 30 and s 33 of the *Australian Securities Commission Act 2001*, schemes may also receive notices requiring the production of complaint files, where ASIC considers it relevant to the investigation of a member.

Since the introduction of the PS 139 reporting responsibility, BFSO has provided ASIC with information on a number of systemic matters, including poor disclosure of the meaning of the term 'cash advance' in the terms and conditions of one bank's bankcard; inaccurate reporting to a credit reporting agency; one bank's misleading media release about a credit card linked to a rewards program; and delays in account transfers performed at the ATMs of one bank.

Two of the systemic issues that FICS dealt with in the past year were notification of reduced life policies, the problem affecting some 244 policy holders such that their policy renewal offers issued showing the originally proposed sum insured, with no reminder that the cover was decreasing; and the poor complaint handling procedures of one Member, in particular slowness of response to FICS and non-provision of information.

IEC has not, as yet, reported any specific instances of serious misconduct, or systemic issues to ASIC.

[12] ASIC Policy Statements - PS 139 - Approval of external complaints resolution schemes is available for download from the ASIC web site

Energy and water schemes

In Victoria, EWOV was set up with important regulatory links, in particular to the Essential Services Commission (ESC) as that state's electricity, gas and water regulator. A formal memorandum of understanding sets out the roles of each body and provides for matters that include referral of complaints, regular meetings between the two and their staff, and information and data sharing where appropriate.

EWOV has the power to report Members to the ESC. If they are found to be in breach of their licence, they risk losing it. If the Member is not operating under a licence (eg. a water authority), the breach is reported to the relevant Minister. In addition, if the Ombudsman considers that the general energy or water policy, or the commercial practices of a Member have, amongst other things, impeded an investigation or the handling of a particular complaint, she may also make a specific report to a Member, and/or the ESC.

In respect of the other energy and water schemes, there are similar provisions for reports to be made to Members, industry regulators and relevant Government Ministers, at the Ombudsman's discretion.

The energy and water schemes have been instrumental in highlighting some significant systemic issues, including energy retailers' market conduct in the newly competitive energy markets, and electricity company behaviour in relation to power surge liability and associated compensation claims.

Referral to other bodies

All of our schemes contribute to policy development within our particular industries, be that policies being developed by regulators, Government, industry associations or individual Members. Most of us now have Policy/Research Officers who are kept very busy commenting on, and keeping up with, the ever-changing landscape of industry codes and regulations.

Our schemes also act as conduits for the referral of complaints to other forums, including safety regulators, other schemes, state and commonwealth ombudsmen, community legal centres and financial counselling services.

EWOV, for example, has memoranda of understanding with Victoria's electricity and gas safety regulators. Under these, that scheme has a responsibility to monitor and analyse electricity and gas case data, to establish industry trends and systemic issues and report these to the regulator.

FICS also has memoranda of understanding with the Australian Stock Exchange and the Financial Planning Association, to provide regular statistical and trend information, and also to report conduct of their Members that may require disciplinary action.

Adding value to industry

To echo the theme for this NADRAC conference, industry-based dispute resolution is indeed 'a better way to do business'. However, the value-add to individual scheme Members depends very much on the Member's philosophical commitment to co-operation, and their attitude to complaints. Where a company is simply paying lip service to its scheme membership, participating only because it's compelled by legislation, or licence, or industry code to do so, the potential benefits are diminished.

While our schemes have been set up primarily to handle complaints, we're able to offer much more than that, particularly to Members prepared to accept our advice regarding customer service improvements, and act on it. Some ways that we do this follow.

Improved industry image

Having an effective scheme offering a free and speedy dispute resolution service to customers of an industry's products and services contributes enormously to the industry's overall image. It generates greater stakeholder satisfaction with the industry and can help give the industry's image a polish where that may be needed.

A cost effective option

For customers, using an industry-based scheme is a very cost-effective option. This also holds true for industry Members, since resolving disputes through our schemes is a more cost-effective solution than litigation.

Facilitating improved communication

Industry-based schemes can play a valuable role in improving communication between customers and service providers. In so many of the cases we handle, miscommunication and poor information provision emerge as issues. Our schemes offer a unique opportunity for communication between parties to be re-established in a non-threatening impartial forum.

Unique, independent research source

The intelligence gathered by our schemes is a unique source of independent research about the customer experience, which can be factored into Member's continual improvement processes. Those of us whose schemes operate across industries are also able to comment on issues and best practice across those industries.

Provision of early warnings

There are times when our schemes' day to day contact with customers gives us the first indication of a problem within a Member's processes. Alerting the Member to these can enable quick action to minimise further customer impact and in turn save itself (and likely its customers also) time and money. In one recent instance, one of the energy and water schemes, having received and investigated a single complaint,

recognised that it clearly indicated that thousands of the Member's customers would have been affected the same way. For this company, the scheme's early detection of the issue, saved it from greater financial risk. At the same time, it gave it the opportunity to rectify the problem and be seen to be proactive in doing that.

Similarly, we have been able to identify deficiencies in products and services. IEC, for example, has successfully influenced insurance industry practices in respect of a number of areas, including the industry's approach to flood claims and its duty of disclosure.

Focussing on ethical considerations

As the decisions made by our schemes go beyond simple application of the law, to allow us to consider good industry practice and fairness, we have the opportunity to consider ethical outcomes and raise the standards of industry participants. An example of this is the influence EWOV has had on how Victorian electricity, gas and water providers deal with customers in financial hardship.

Industry forums and conferences

We also contribute to industry service improvements by way of our hosting of industry forums, which give Members the opportunity to discuss current issues with both the scheme and other service providers. Some schemes also host specific-issue industry conferences.

Reporting publicly

Public reporting is a powerful tool. Most of our schemes report publicly, and regularly, on both individual Member performance and overall industry performance. Apart from being a useful source of competitor information, these reports focus public attention on good and poor performers, adding market advantage in a 'competition by comparison' manner.

In summary, our daily contact with customers places us in the unique position of being able to observe trends, and provide valuable and practical feedback to the industry sectors we operate in. Our relationships with Members are not, however, always plain sailing.

Not always plain sailing

Despite the obvious contribution that our schemes can, and do, make to improving customer service and complaints handling, our relationships with Members are not without their difficult moments, as the following examples illustrate.

In late 2001, the TIO Council and Board considered what amounted to a challenge by some of the TIO's internet service provider (ISP) Members to one of the fundamentals of the scheme: that its services be free to all customers. Some ISP Members had incorporated a condition within their sign-up service contracts that would have allowed them to recoup TIO complaint handling fees from customers. On the Ombudsman's advice, the TIO Board and Council requested an amendment of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* to ensure customers can't be held liable for any such charges. Amending legislation is currently being considered by the Commonwealth Parliament.

FICS is presently a defendant in two legal actions both at early stages. One of these has been brought by a Member seeking to set aside a Panel Determination. The other has been brought by a complainant seeking personal injury damages, alleging these were caused by a Panel Determination that the complainant considers to be incorrect.

In 1998, three Binding Decisions on power surge damage made by EWOV were challenged in the Supreme Court of Victoria. This was the first time, in the world, that a Member company had taken legal action against its own scheme on jurisdiction. The scheme successfully defended the action, with the judge making some salient points about the nature of the scheme, confirming the independence of the Ombudsman's role.

The judge took the view that it wasn't for the courts to take any interest in jurisdictional or Binding Decision disputes, in schemes where Members freely enter the scheme in the understanding that they give power of jurisdiction and Binding Decision-making to an Ombudsman. Further, the judge considered that dispute resolution schemes have the power to make whatever Binding Decision they believe is fair and reasonable, so long as the decision is not aberrant or irrational.

Energy and Water Ombudsman (Victoria), Fiona McLeod,[13] provides an interesting perspective on the scheme/Member relationship -

"At the beginning, the electricity industry publicly declared its support for the concept and operation of the scheme. It was only after it commenced operation, when the industry realised that my staff and I were going to indeed be independent, that tensions arose. However, looking back, the conversion by the electricity industry from tension to acceptance, comfort, familiarity and recognition was a swift one. The industry recognised early on that the scheme was not only providing an important and useful independent resolution of customer complaints, but also a valuable mechanism for feeding independent information back into individual companies and the industry as a whole, about how to improve customer service policy and practice. This pattern of acceptance has been the same with the gas and water industries."

[13] Fiona McLeod, Energy and Water Ombudsman (Victoria), in an article prepared in the journal of the South African National Electricity Regulator, April 2003

ADR practice and methodology in industry-based schemes

As noted earlier in this paper, the National Benchmarks underpin the ADR methodology of each of our schemes.

While all of the principles articulated in those Benchmarks are important, for industry-based schemes 'independence' is particularly so, since there will always be those who question whether our decision-making processes and scheme administrations can truly be independent from the Members that fund our operations.

Suffice to say, independence strongly underpins everything we do.

For us in practice, this means -

- following the principles of ‘natural justice’ or fair hearing;
- allowing each party a fair opportunity to explain their perspective;
- allowing each party equal opportunity to provide any further information that may be relevant to the investigation;
- not pre-judging a customer;
- avoiding personal conflicts of interest; and
- avoiding the deliberate withholding of information, so that one party can obtain a better outcome.

Common ADR practices and methodology

Our schemes also have several other common procedures -

- Ease of access for customers is achieved through toll free numbers; use of the National Relay Service (NRS) or telephone typewriter services (TTY) both of which enable callers with a speech or hearing impairment to converse via text; and interpreting services for callers whose first language is not English.

- We exist essentially for consumers, not large corporations, which are expected to have the resources to pursue disputes by other means. Our services are, however, available to small business. In some schemes, this is defined by the type of business and the number of employees; in others it's decided on a case by case basis.

- There's generally no charge to customers for our services, although in some circumstances, BFSO charges small business customers a fee (which may be refunded depending on the outcome of the case).

- Before we'll accept a complaint for investigation, the Member concerned must have been given the opportunity to address and resolve it. Some schemes use a 'refer to higher level' process, which enables the Member to have the opportunity to resolve the matter at a level above its call centre, if that is the only Member contact the customer has had, before approaching us.

- We use a range of ADR techniques - preliminary assessment, investigation, negotiation, facilitation, formal conciliation, decision-making.

- There's no need for customers using our schemes to have legal representation and such representation is not encouraged.

- Complaints can be lodged by customers directly, or third parties, on their behalf. Parties directly affected by an action taken by a service provider, but not necessarily a customer of that service provider, can also lodge complaints.

- Most customers make their first contact with us by phone. This ease of access is something that makes our schemes so accessible to customers. There are some schemes that require a written application or follow-up.

- We're neither industry, nor customer, advocates. We explain to customers that our role is not to act on anyone's behalf, but to resolve issues in a fair and independent manner.

- All of our schemes consider what is fair and reasonable in all the circumstances, taking account of relevant industry codes, good industry practice and the law.

- Customers can withdraw their complaints at any time. They and the Member are also free to resolve the dispute between themselves at any time.

- Each scheme investigates complaints on a case by case basis, seeking input from both sides of the dispute. External advice is sought in some cases, as appropriate (eg. regulatory, legal and technical).

- Some disputes don't result in compensation, though most do, whether that's a negotiated outcome, or a customer service gesture on the part of the Member.

- Customers are not bound by any decision or determination we may make, and may elect to exercise their right to take legal action, or other forms of redress if they remain dissatisfied. As our processes concentrate on being fair and reasonable, and are thorough and consultative, this is rare, but it does happen.

- If the customer accepts the decision or determination, the Member must carry it through. By virtue of their membership of our schemes, industry participants are bound by our binding decisions/determinations. There are no appeal mechanisms.

- Each scheme has the discretion not to investigate a complaint further, if it considers that the case does not have merit, or is better dealt with in another forum (eg. the courts or by a regulatory body).

Scheme-specific practices and methodology

There are, however, some methodology differences between the schemes, and differences in award levels, the latter largely due to the nature of the disputes handled, and the likely size of claims in that industry.

Decision-making models also differ. In the TIO, BFSO, EWOV, EWON, EIOSA and TEO, decisions are made by the Ombudsman. In the case of IEC and FICS, they are taken by Panels and Adjudicators.

TIO

The TIO works towards resolution by consensus, in the view that this results in a better relationship between the parties, helps to reduce costs and improves the scheme's productivity. It seeks to avoid an overly legalistic approach, although it does have regard to the law, since this is considered to provide a starting point for the determination of fair and reasonable outcomes. To outline its approach to particular types of complaints, the TIO produces position statements, which are made available to Members and other interested parties.

In terms of awards, the Ombudsman may make -

- a Binding Direction, up to $10,000, that the service provider take certain action;
- a Determination that the service provider pay compensation (binding up to $10,000);
- a non-binding Recommendation for compensation, or some other action, up to a limit of $50,000 (if this is rejected by the service provider, it is still bound by the determination up to $10,000); or
- a Finding of fact, in cases where the Ombudsman concludes compensation payable is in excess of $50,000.

BFSO

Australian Banking Ombudsman, Colin Neave, describes BFSO as having referral, mediator, investigator, decision-maker and adviser roles. Conciliation conferences are used where the case is in the investigation stage, if the Ombudsman, or a Case Manager, considers this would be of benefit.

BFSO's processes tend to be more formal, in comparison with those of some other schemes. This results largely from the requirement on it to have more regard to banking case law, which is in considerably greater quantities than case law, in say, utilities.

Once a case has been investigated, BFSO has various options for its resolution. The actual method will depend largely on the complexity of issues the case has raised, the parties' expectations and their willingness to negotiate. The Ombudsman can make decisions and awards of up to $150,000 to compensate a customer for financial loss.

A case may be -

- referred back to the bank without significant involvement by BFSO (almost 90% of cases are resolved promptly after such referral);
- resolved through facilitation of a Settlement between the parties;

- closed after the parties are provided with a Finding, or written assessment of the merits of the dispute;
- the subject of an Ombudsman's Recommendation, where the customer or the bank has rejected a 'finding'; or
- the subject of a Determination binding on the bank, should it not accept the Recommendation previously made; to date, all disputes have been resolved without the need for a Determination.

The Ombudsman publishes detailed Guidelines, Procedures and Bulletins on topical issues, quarterly, to inform stakeholders about his attitude to those issues.

Energy and water schemes

All four energy and water schemes focus on conciliation. Where the parties have been unable to reach a resolution by agreement with the scheme's help, the Ombudsman has determinative powers to make a written Binding Decision. Binding Decisions may be made to the value of $20,000, or with the consent of both parties, to $50,000. The Energy and Water Ombudsman (Victoria), Fiona McLeod, considers it a mark of her scheme's success that at June 2003, it had been necessary for her to make 35 Binding Decisions only, out of some 46,000 cases.

The Ombudsman also has appropriate powers to ensure Binding Decisions are implemented, or that a Member meets requests for information. These include being able to escalate the matter to the CEO of the Member, refer it to the scheme's Board, and/or refer it to the industry regulator, or relevant Minister.

FICS

As with the other schemes, FICS operates through processes of investigation, negotiation, conciliation and arbitration. Most cases are resolved through investigation, negotiation and conciliation of written complaints, carried out by the individual case managers.

If the complaint can't be resolved through conciliation, the case manager refers it to FICS' CEO. The CEO may then refer it for a conciliation conference, or may set it down for arbitration by a Panel, or by an Adjudicator. If the CEO believes a complaint to be frivolous or vexatious, the relevant Chair of the Panel must be advised and the complaint may be dismissed.

Decisions made by Panels and Adjudicators are binding on FICS Members. Matters up to $10,000 in value, and relatively straightforward, are dealt with by an Adjudicator. Determinations are made by Panels, consisting of an independent Chair, a consumer representative and an industry representative, with the industry representative changing depending on the type of complaint.

The Panels and Adjudicators are not investigators, nor are they advocates for either party. In nearly all cases, consideration of the case occurs on the written information provided by the parties. However, if the Panel or Adjudicator requires, the parties may appear either in person, or by way of a telephone, or videoconference.

The scheme's award limits are -

- $250,000 for life insurance complaints;
- $6,000 per month for income protection or similar policies; and
- $100,000 for financial planning, stockbroking and managed investment companies.

IEC

IEC similarly operates on two levels. Initially, IEC consultants provide customers with advice and assistance to help them resolve their dispute directly with the insurance company. If that's unsuccessful, the dispute can be referred to the second level of the scheme, where -

- if it's less complex, and up to $3,000, it can be considered and determined by an Adjudicator; or
- if it's up to $120,000 ($150,000 from September 2003) it can be determined by a Panel or Referee.

Beyond that, a Panel or Referee may also make a recommendation, up to $290,000.

IEC Chief Executive, Sam Parrino notes that IEC focuses on the making of formal determinations, over mediation and conciliation. In saying this, he points to the educational and training impacts of wide dissemination of information on, and the learning from, disputes - creating what he calls a 'raising of the bar' effect. Among our schemes, this transparency and information dissemination is also achieved through extensive, comprehensive and regular communication of case studies and other information to a range of stakeholders.

The critical link between external ADR schemes and internal business complaint handling processes

We all have the opportunity to provide leadership in dispute resolution within our respective industries. And, our independence from Members, and our determinative authority by virtue of their scheme membership, put us in a unique position to affect business behaviour.

However, the Members of our schemes are able to control, completely, the need that their customers have to seek our help. Before we will accept a case for investigation, the Member must be given fair and reasonable opportunity to resolve the complaint. Depending on each scheme's procedures, this gives the Member one, and usually two, up-front opportunities to fix the problem and address aspects of their service which may have inadvertently gone astray.

Most of our schemes have designated higher level contacts within individual Members' internal complaints handling departments, or in some cases, within a regulatory or service excellence group. Cases can be redirected to these people, if it's thought that further contact with the Member is necessary before the case is investigated. Often at this point, the communication between the customer and the Member is restored, and the complaint is resolved.

We also go out to visit scheme Members, to discuss issues with management and /or front-line staff, and where necessary, to better understand how the assets that deliver services are managed. Some schemes conduct induction sessions for new staff who have scheme liaison roles within Member companies. Others contribute to the training of staff in complaint handling procedures. The TIO for example, has produced a *"Guide to complaint handling"*, and made it available to all Members.

As well as reporting publicly, all schemes provide regular Member-specific reports on matters such as case numbers, types, trends and practices of concern. Used effectively, the information in these reports is an invaluable and free form of market research. Not only do the reports highlight the 'big ticket' items, they often clearly point to emerging trends, giving Members the opportunity to address issues early on, rather than letting them escalate or become company-wide.

Really, the key issue is whether and how individual Members use our reports. If the information in them is simply noted and filed, the learning will be lost, or the information not taken on board until it's too late. Some of our schemes seek to get around this by ensuring reports are fed into Member companies simultaneously at different levels, including at CEO level.

Our own capacity to have a direct impact on the internal complaint handling processes of our Members also varies. For schemes such as FICS, with high Member numbers and large differences in the size of Member operations, it can be much more difficult to affect customer service levels, and even to maintain the close links that enable informed comment on Members' internal complaints handling processes. FICS Chief Executive, Alison Maynard confirms that among the schemes the realities in this respect are not always the same. She observes that, in the case of FICS, it can be difficult to get the Member to respond, let alone be in a position to comment on its processes.

We are often quoted as saying that the ideal would be for all of our schemes to be put out of business. Indeed, this could happen if all individual scheme Members were more effective at resolving customer disputes through their own (internal) complaints handling systems. Realistically though (and from our collective experience) this is not likely to happen in the short term, if at all. BFSO, the oldest of our schemes, has been around 13 years now. And, while there have been some scheme-specific decreases, the number of cases across all of our industries continues to grow.

Related to this, the results of research[14] carried out among Members of the Society of Consumer Affairs Professionals (SOCAP) in 2001 were interesting. SOCAP's membership likely includes representatives from a high proportion of our scheme Members, certainly the larger enterprises. 94% of SOCAP Members agreed with the statement *"Good complaint handling can be a marketing tool"*, however only 84% agreed with *"Our company attaches a great deal of importance to complaints handling"*. Of concern is that only 77% agreed with *"We have a detailed and sophisticated system for reporting and playback of customer complaints"*. That appears to leave 23% of the SOCAP Member organisations surveyed with complaints feedback systems in need of review.

As noted earlier, we think there is some way to go before we are put out of business.

[14] 2001 SOCAP research project undertaken by Brian Sweeney and Associates

Current status of schemes and emerging issues

Change is a prevalent feature of the commercial environments in which most of our Members are operating. In turn, for us this means there are always new issues of customer concern.

A development common to us all is the dissolution of traditional market boundaries, with the rise of multi-utilities and multi-service financial organisations. Whereas it was once clear to customers what they were buying and from whom, today the purchase and payment landscapes are becoming more complex.

In commenting on the matter of convergence, Telecommunications Industry Ombudsman, John Pinnock, has said, "*In the long-term, the issue of bundling of services and access devices may prove to be one of great importance to consumers and the TIO"*.[15]

For the TIO, this 'bundling' issue looks set to manifest itself in phone companies taking on third party billing responsibilities. For customers, this will mean items on their phone bills that have little or no relation to phone usage. It could also lead to disconnection of a phone service for non-payment of an unrelated bill, simply because that charge has been included on the phone bill. In this respect, however, the ACA has made it clear that a customer's standard telephone service is not to be disconnected because of non-payment of a third party charge.

In relation to complaints to the TIO about, say, phone bills, this 'bundling of services' is likely to raise issues about what aspects of the complaint the TIO has the jurisdiction to investigate. It is almost certain to complicate the case resolution process, particularly so in relation to the bundling of Pay TV with other services.

Blurring of traditional boundaries is not confined to the telecommunications industry. Electricity companies are now selling gas, and vice versa; some are also selling water; others have been selling ISP services; banks are selling financial products. Where our jurisdiction starts and finishes is an issue all of our schemes are likely to be dealing with sooner rather than later.

Individual updates

BFSO is also currently examining issues around its jurisdictional limit. An increasing number of disputes are excluded from its consideration, because the amount claimed exceeds the scheme's present $150,000 limit. For example, the average mortgage loan made on the security of residential property is now well in excess of $150,000. The BFSO Board has also agreed to accept non-banks as members of the scheme.

EWOV has recently declined the opportunity to add public transport to its electricity, gas and water mix. It's likely though, that in the near future, it will assume responsibility for complaints about liquefied petroleum gas (LPG). It's also dealing with the challenges of new case issues presenting as the competitive energy market gathers momentum.

[15] Telecommunications Industry Ombudsman Annual Report 2002

Issues to do with the competitive energy market are also high on the agenda for EWON and EIOSA. In addition, EIOSA is likely to be expanded to include gas and water, as foreshadowed in June 2002 by the South Australian Government.

In respect of IEC, proposals are being considered to substantially increase the jurisdiction of the scheme to deal with additional classes of business, and to significantly extend the definition of small business. Recommendations for an expanded jurisdiction for IEC have gone to its Board, and a response is pending.

As noted earlier, FICS has agreed to take on the handling of complaints about Friendly Societies, as well as a broader membership in the investments area. The scheme is also implementing the changes recommended by the independent Review conducted in 2002[16].

Co-operative initiatives

In June 2002, IEC, BFSO and FICS launched a joint telephone referral centre, to provide customers with a single access number for help with matters to do with those three schemes. The schemes are presently considering other forms of co-operation, to facilitate further service improvements, efficiencies and economies of scale.

Together, EWOV, EWON, TEO, EIOSA, and the Electricity Complaints Commissioner in New Zealand, form ANZEWON (the Australia and New Zealand Energy and Water Ombudsman Network). ANZEWON is conscious that, in the absence of a national scheme, there's a need to ensure best practice, and consistency of practice, across all energy and water ombudsman schemes in Australia. In particular, it recognises that the customer experience should be essentially the same, no matter which energy and water scheme they contact, notwithstanding that individual case outcomes will differ.

To this end, in 2002, the Australian Members of ANZEWON embarked on a major three-stage project to identify where scheme policies and procedures varied significantly, agree on what represented best practice in those areas, and finally to develop strategies to achieve this across all of the schemes. As a result, each energy and water scheme throughout Australia has moved to implement significant changes. The schemes are now discussing other possible joint projects that will help streamline operations and improve service to customers who use their services.

Another joint industry ombudsmen initiative is the Australian and New Zealand Ombudsman Association (ANZOA) which held its inaugural meeting in July of this year. Initially, ANZOA is an association for all industry-based Ombudsmen, however it is planned to expand to include the public sector in due course. All of the Ombudsmen and Chief Executives of our schemes are founding Members.

[16] Further information on the FICS Independent Review may be found on the FICS website - www.fics.asn.au

Early ANZOA project considerations include the development of a work program to explore training for staff of industry-based Ombudsman schemes, including introduction of a competency-based framework and a national training program.

In conclusion

It is the collective view of the Ombudsmen we are representing here today that industry is generally committed to providing the best customer service it can, and in most cases, this is what happens. However, it is important that where, for whatever reason, an issue has not been able to be resolved directly, the customer can come to an independent Ombudsman to have it investigated and resolved. Our schemes fulfil this role for banking, telecommunications, financial services, insurance services, electricity, gas and water customers.

In doing so, they have become an important component of the customer protection framework in Australia. As market developments bring customers, and in turn us, new sets of options and challenges, we will continue to deal with them - fairly and independently.

In session 2 of this series, the Industry-based Ombudsman Network will present a panel discussion of industry case studies and current issues. Facilitated by the Energy and Water Ombudsman (Victoria), Fiona McLeod, it will feature case studies from banking, finance, insurance, telecommunications, energy and water, with commentary from representatives of the schemes operating in those industries.

Session 3 will examine the relationship between internal dispute resolution and the ADR/Ombudsman schemes.

Session 4 will be a facilitated discussion presenting consumer, industry and independent ADR views on the future of industry-based customer dispute resolution schemes.

LIST OF KEY ACRONYMS

ABIO	Australian Banking Industry Ombudsman
BFSO	Banking and Financial Services Ombudsman
ACA	Australian Communications Authority
ACIF	Australian Communications Industry Forum
ANZEWON	Australia and New Zealand Energy and Water Ombudsman Network
ANZOA	Australian and New Zealand Ombudsman Association
ASIC	Australian Securities and Investments Commission
CUDRC	Credit Union Dispute Resolution Centre
EIOSA	Electricity Industry Ombudsman South Australia
EIOV	Electricity Industry Ombudsman (Victoria), now EWOV
ESC	Essential Services Commission (Vic)
EWON	Energy and Water Ombudsman NSW
EWOV	Energy and Water Ombudsman (Victoria)
FICS	Financial Industry Complaints Service
ICA	Insurance Council of Australia
IEC	Insurance Enquiries and Complaints Ltd
IICC	Insurance Industry Complaints Council
LIFA	Life Insurance Federation of Australia
NADRAC	National Alternative Dispute Resolution Advisory Council
SAIIR	South Australian Independent Industry Regulator
SOCAP	Society of Consumer Affairs Professionals
TEO	Tasmanian Electricity Ombudsman
TIO	Telecommunications Industry Ombudsman