



SUBMISSION

Productivity Commission Inquiry Access to Justice Arrangements Draft Report

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Role of the Public Transport Ombudsman (PTO)

The PTO is an independent industry-based Ombudsman scheme, established in 2004 to receive, investigate and resolve complaints about public transport services provided by Victorian public transport operators that are members of the PTO scheme. PTO scheme members include passenger train, tram and bus companies, and others involved in providing public transport services, such as Public Transport Victoria and Southern Cross Station. The scheme is funded by the industry, based on an annual fixed membership fee and on a variable user-pays basis, calculated on annual complaint numbers.

The PTO complies with the **National Benchmarks for Industry-Based Customer Dispute Resolution Schemes** and utilises the principles of alternative dispute resolution to effectively and efficiently handle complaints. If a complaint cannot be resolved through agreement, the Ombudsman is able to make a Binding Decision to resolve the complaint, or may dismiss the complaint.

The PTO has extensive experience in handling customer complaints and working with the public transport industry to improve customer service practices and internal dispute resolution (IDR) processes. We also play an important role in the identification of systemic issues facing the public transport industry, including investigation and resolution of issues within PTO jurisdiction and referral to appropriate agencies for other issues.

Further information about the operation of the PTO, including public reports can be found on our website www.ptovic.com.au.

PTO Vision

Through providing leading dispute resolution services, we will contribute to improving how public transport services meet the needs of the Victorian community.

Cultural Values

Excellence:	Quality focused, Accountable, Responsive, Accurate We strive for excellence because we value what we do
Integrity:	Open, Confident, Strong, Committed We are transparent, honest and consistent
Leadership:	Inspired, Creative, Courageous, Effective We lead through encouragement, guidance and innovation
Respect:	Empathic, Considerate, Honest, Fair We treat ourselves and others with dignity
Independence:	Equitable, Reasonable, Consistent, Transparent We are impartial and objective

Inquiry into Access to Justice Arrangements – Productivity Commission Draft Report April 2014

Thank you for the opportunity to provide a written submission to the Productivity Commission's Draft Report published on 8 April 2014.

As a member of the Australian and New Zealand Ombudsman Association (ANZOA), I have contributed to and endorse its submission to the draft report.

The PTO's interest in making further comment is based on its role as an industry based Ombudsman and its experience in investigating customer complaints and systemic issues about public transport operators in Victoria. The membership of the PTO comprises a mixture of private companies and government agencies providing public transport services in Victoria.

I will provide comment on a number of aspects of the draft report relevant to the role of ombudsmen, specifically Draft Finding 2.2, Draft Recommendations 8.5, 9.1, 9.3 and Information Request 9.1.

Draft Finding 2.2

The PTO agrees with the Commission's draft finding that informal dispute resolution mechanisms such as ombudsmen could be better employed to address a significant share of unmet legal need in the community.

The PTO considers that the following benefits would flow to consumers as a result of greater utilisation of ombudsmen to resolve disputes:

- A greater willingness on the part of consumers to pursue dispute resolution when they have the option of an impartial process that is informal, quick, accessible and cost free.
- ADR methodologies utilised by ombudsmen such as conciliation and shuttle negotiation support the active involvement of the consumer in the resolution of their complaint and help avoid an adversarial environment. This is particularly important when there is an ongoing relationship between the consumer and the scheme member that must be rebuilt and maintained.
- Ombudsmen services are appropriate for resolution of low monetary value disputes in circumstances where consumers would otherwise not contemplate court or tribunal proceedings.
- A reduction in the potential for future complaints through the resolution of systemic issues. For example, the PTO Systemic Issues policy requires a member to identify all affected consumers and implement processes to ensure they all have access to fair and reasonable redress. This redress is available to affected consumers whether or not they have not made a complaint about the systemic issue.
- Ombudsmen based outreach programs can target groups identified as having greater unmet legal need and ensure they are aware of their dispute resolution options.

Draft Recommendation 8.5

The PTO agrees with **the Commission's draft recommendation that** core curricula for law students include the full range of legal dispute resolutions, including ombudsmen.

The PTO also agrees that consideration should also be given to developing courses that enable tertiary students of non-legal disciplines and experienced non-legal professionals to improve their understanding of legal disputes and how and where they might be resolved. This would be of particular benefit to non-legal professionals such as financial counsellors, accountants and community support workers.

The PTO considers that the suggested changes to core curricula for law students will increase general awareness within the legal profession of the significant role ombudsmen play in the dispute resolution landscape and will equip lawyers with a wider range of options for dispute resolution. We know that sometimes the best **legal advice is that a lawyer isn't necessary** at all.

The PTO suggests that the development of relevant subject material about ombudsmen for legal and non-legal courses be developed with input from the Australian and New Zealand Ombudsman Association.

Draft Recommendation 9.1

The PTO supports **the Commission's draft recommendation that Government and industry** should raise the profile of ombudsman services in Australia.

More prominent publishing of which ombudsmen are available and what matters they deal with.

Government bodies that receive consumer complaints and disputes such as the Consumer Affairs agencies in each state should have prominent and comprehensive information about ombudsmen, their jurisdiction and the dispute resolution services which they provide.

That information should be clear, practical and accessible to all consumers, particularly vulnerable consumers.

A requirement on service providers to inform consumers about avenues for dispute resolution.

The PTO works hard at promoting awareness of its office with consumers. We **consider that industry's role in informing consumers about avenues for dispute resolution** is crucial as they are the primary source of information for consumers.

The PTO Member Awareness Policy sets out minimum requirements for scheme members to advise consumers about the PTO. Compliance with these standards is audited six monthly. The policy requires members to inform consumers about the PTO by:

1. Providing contact details for the PTO in relevant publications and on websites;
2. Making PTO brochures available to customers; and
3. **Including standard text in all complaint correspondence about a consumer's right to contact the PTO.**

We consider it vital that consumers are informed about our office at every stage of the **member's** dispute resolution process so they know who we are and how to **contact us if they can't resolve their complaint directly with the member.**

Information being made available to providers of referral and legal assistance services.

The PTO considers that the provision of information about ombudsmen will enable referral and legal assistance service staff to make better referrals, freeing up time and resource for consumers trying to navigate a complex system but also for the providers themselves.

It is widely recognised that legal referral and assistance services such as Community Legal Centres (CLCs) have high workloads and limited resources. Appropriate referrals to ombudsmen will free up resources and reduce the number of consumers who are turned away.

The PTO considers that CLCs have a role in identifying systemic issues through their **case work and other activities and referring 'test cases' (individual complaints) to ombudsmen.** Increased awareness of ombudsmen in referral and legal assistance services will lead to ongoing and increased identification of systemic issues which ultimately leads to better service provision to consumers.

The PTO recognises that there can be a high staff/student turnover in legal assistance services and is of the view that this recommendation should include regular outreach and training.

Draft Recommendation 9.3

Government agencies should be required to contribute to the cost of complaints lodged against them.

This is a matter of government policy and I unable to comment directly on its merit.

For the record, the membership of the PTO comprises private companies and government agencies. In line with the **PTO's funding model** each of these organisations pays a fixed levy and a variable levy based on each **member's** share of cases in the previous year. Therefore these government agencies are contributing to the cost of complaints lodged against them.

Ombudsman should report annually any systemic issues they have identified that lead to unnecessary disputes with government agencies, and how those agencies have responded.

The PTO considers that the publication of systemic issues has a number of benefits:

- Systemic investigations support public accountability of organisations and agencies;
- They generally include a test case or a case study which make the circumstances of the systemic issue relatable;
- Publicity stemming from public reporting is a strong incentive to resolve systemic issues proactively and holistically – which can create good news stories for organisations and agencies;
- Other agencies are put on notice to get their houses in order; and

- It provides the public with practical information about what ombudsmen do and how they contribute to improving industry and the services provided by Government.

To ensure that all parties are aware of their rights and responsibilities, clear Systemic Issues policies and procedures should be publicly available.

Information Request 9.1

The PTO undertakes a wide range of activities that raise, address and publicise systemic issues including:

1. Investigation and resolution of systemic issues raised in complaints or referrals to the PTO;
2. Submissions to inquiries and public fora about issues affecting the PTO, the public transport industry and consumers more generally;
3. Public interest reports such as my 2013 report on the accessibility of public transport services: Closing the Accessibility Gap;
4. Publication of systemic issues case studies on the PTO website;
5. Regular engagement with stakeholders including consumer groups, public transport operators and government; and
6. A community outreach program.

In response to the Commission's request for information about the cost of undertaking systemic review, the PTO provides the following information about the cost of undertaking systemic issue investigations and producing submissions.

Estimated effort on systemic issues and submissions	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Number of systemic issues	Not recorded	Not recorded	Not recorded	7	8	21
Number of submissions	2	4	0	1	3	5
Estimated cost of systemic issues	\$26151	\$24491	\$23412	\$55721	\$50987	\$57620
Cost of systemic issues as a proportion of all PTO costs	2.16%	1.90%	1.81%	4.11%	3.32%	3.39%
FTE employees involved in systemic issues as a proportion of all PTO FTE	0.20%	0.20%	0.20%	0.50%	0.50%	0.50%

Janine Young
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