

Telecommunications Industry Ombudsman Ltd

Submission to the
Joint Standing
Committee Inquiry
into the National
Broadband Network

1 May 2017

Contents

1. The Telecommunications Industry Ombudsman’s role	1
1.1. The Telecommunications Industry Ombudsman is an independent dispute resolution service	1
1.2. The Telecommunications Industry Ombudsman is funded by industry members and free to consumers	1
1.3. Legislation requires telecommunications providers to be members of the Telecommunications Industry Ombudsman	1
1.4. The Telecommunications Industry Ombudsman is not a government agency nor a regulator	2
2. The Telecommunications Industry Ombudsman’s complaint handling process	3
3. Information collected about complaints	4
4. Telecommunications Industry Ombudsman complaint volume correlates with market place events	5
5. Recording complaints about services delivered over the NBN	6
Information recorded about services delivered over the NBN	6
The Telecommunications Industry Ombudsman does not record information about technology type	7
Data reported	7
6. Insight into consumer complaints about services delivered over the NBN	8
6.1. Who complains about services delivered over the NBN?	8
6.2. Low representation of complaints about services delivered over the NBN	9
6.3. Issues in complaints about services delivered over the NBN	10
6.4. Connection issues	11
6.5. Fault issues	12
6.6. Responding to NBN issues	12
Technician appointment systems	13
Infrastructure difficulties	13
Sales and marketing practices	13
Early termination fees	13
Interim Satellite Service and Sky Muster	13

1. The Telecommunications Industry Ombudsman's role

The Telecommunications Industry Ombudsman (TIO) is an independent dispute resolution service for the telecommunications industry. The TIO is not funded by government. The TIO is not a regulator and does not monitor the performance of the NBN rollout.

1.1. The Telecommunications Industry Ombudsman is an independent dispute resolution service

The TIO is the independent dispute resolution service for the Australian telecommunications industry. The TIO is an avenue for redress when consumers are unable to resolve their complaint with their service provider.

The TIO plays an important role in ensuring Australia has a robust dispute resolution process that contributes to enhancing consumer confidence and assists all industry stakeholders. The TIO provides an accessible service for resolving complaints from residential and small business consumers about their telecommunications or internet service. The TIO provides an effective alternative to courts and tribunals.

The TIO is a high volume complaint service. In 2016 the TIO processed approximately 160,000 enquiries and complaints.

1.2. The Telecommunications Industry Ombudsman is funded by industry members and free to consumers

The TIO is an independent body and does not receive funding from Government.

The TIO is funded by industry members and the service is free to residential and small business consumers.

1.3. Legislation requires telecommunications providers to be members of the Telecommunications Industry Ombudsman

The *Telecommunications (Consumer Protection and Service Standards) Act 1999* requires all 'eligible carriage service providers' to become TIO members. This includes internet service providers.

This legislative requirement is reflected in the TIO's Constitution, which specifies members as carriers, carriage service providers and carriage service intermediaries. Currently, there are approximately 1,500 members of the TIO.

1.4. The Telecommunications Industry Ombudsman is not a government agency nor a regulator

The TIO is not a government agency, nor is it a regulator. It is a company limited by guarantee. Telecommunications industry regulators are the Australian Communications and Media Authority (ACMA) and the Australian Competition and Consumer Commission (ACCC). Government and the regulators set policy and regulations and oversee the rollout of the NBN.

Figure 1 below shows the respective roles of the Government, regulators, consumer and industry representatives, and the TIO.

Figure 1: Roles and responsibilities in the telecommunications industry

GOVERNMENT	REGULATORS	CONSUMER REPRESENTATIVES	INDUSTRY ASSOCIATIONS	DISPUTE RESOLUTION
<p>Federal Minister for Communications</p> <p>Federal Minister for Regional Communications</p> <p>Department of Communications and the Arts</p> <ul style="list-style-type: none"> collectively responsible for setting overarching telecommunications policy and coordinating implementation administers the mobile blackspot funding program <p>State/Territory Governments</p> <ul style="list-style-type: none"> some contribute to mobile black spot funding 	<p>ACMA</p> <ul style="list-style-type: none"> administers the telecommunications licensing and conduct regime enforces compliance with TIO scheme membership and Ombudsman decisions approves industry codes <p>ACCC</p> <ul style="list-style-type: none"> regulates the network and market competition administers the Australian Consumer Law, including ensuring fair market practices 	<p>Australian Communications Consumer Action Network (ACCAN)</p> <ul style="list-style-type: none"> peak body for consumer education, advocacy and research (telecommunications specific) <p>Financial Counselling Australia (FCA)</p> <ul style="list-style-type: none"> consumer case work and advice contributes to policy debates; hardship and debt focus <p>Other Consumer Law Centres</p> <ul style="list-style-type: none"> consumer case work and legal advice <p>CHOICE and Consumers Federation of Australia</p>	<p>Communications Alliance</p> <ul style="list-style-type: none"> develops industry codes, standards and guidelines advocates for industry <p>Communications Compliance</p> <ul style="list-style-type: none"> monitors compliance of industry codes <p>Other associations for internet and mobile</p>	<p>Telecommunications Industry Ombudsman</p> <ul style="list-style-type: none"> facilitates the resolution of residential and small business consumer complaints identifies and resolves broader issues makes determinations on land access objections

2. The Telecommunications Industry Ombudsman's complaint handling process

TIO's complaint handling process has been developed in the context of:

- *Telecommunications Act 1997* – Part 6 and *Telecommunications (Customer Protection and Service Standards) Act 1999*
- the TIO's Constitution and Terms of Reference
- Treasury's Benchmarks and Key Practices for Industry-based Customer Dispute Resolution.¹

When resolving a dispute, the TIO has regard to:

- the law – including the Australian Consumer Law, privacy legislation and the provisions of Schedule 3 of the *Telecommunications Act 1997*
- good industry practice
- what is fair in all the circumstances.

The first stage of the TIO's complaint handling process is to refer complaints to members. Members are given the opportunity to resolve complaints through their internal dispute resolution process.

Of the complaints referred to members, around 10% (approximately 11,000 in 2016²) return to the TIO. These complaints are either resolved through conciliation or investigation, or by the TIO making an assessment on the merits of the case.

The Ombudsman has the power to issue binding determinations. This includes determinations about objections from land owners or occupiers to carriers entering on to land to inspect, install, or maintain low impact facilities.³

¹ <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/benchmarks-ind-cust-dispute-reso> <http://www.treasury.gov.au/PublicationsAndMedia/Publications/2015/key-pract-ind-cust-dis-reso>

² The TIO's reporting year is from 1 July to 30 June.

³ The rights and obligations of carriers in respect of owners and occupiers of land affected by land access activity are governed by Schedule 3 of the *Telecommunications Act 1997*, the *Telecommunications Code of Practice 1997* and the *Telecommunications (Low-impact Facilities) Determination 1997*

3. Information collected about complaints

When recording complaints (including about services delivered over the NBN), the TIO collects information from consumers. When collecting information, the primary focus is on ensuring there is sufficient information recorded to facilitate resolution of the complaint.

When recording a complaint, TIO staff identify key information, including:

- which member the complaint is about
- whether the complaint relates to a landline, internet or mobile (the service type descriptions in the *Telecommunications (Customer Protection and Service Standards) Act 1999*)
- the complaint issues – this involves selecting a key word that best describes the consumer’s description of what has gone wrong (there may be more than one). There is a hierarchy for key words, for example the “Fault” category is a first tier descriptor which has second tier descriptors such as “slow data speed”, “unusable service” and “drop outs”
- the post code of the consumer

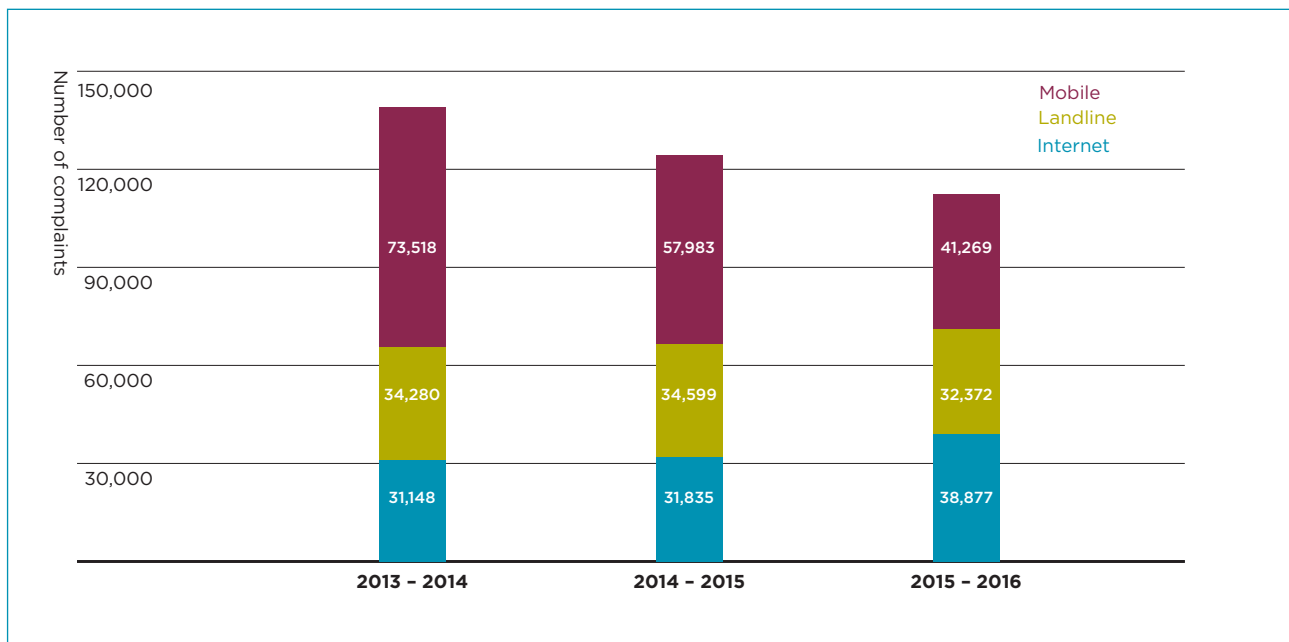
- for fault and connection complaints, whether the complaint is related to a service delivered over the NBN
- what the consumer is seeking as a resolution.

The primary role of the TIO is to facilitate the resolution of complaints. In accordance with Treasury’s Benchmarks and Key Practices for Industry-based Customer Dispute Resolution, the TIO must be efficient, accessible to all Australian consumers, and the dispute resolution processes must be easy to use.

This requires engaging with consumers in a way that makes lodging a dispute easy and shows we are listening. The TIO must not put up barriers or require technical information that the consumer does not have or is unable to provide, for any purpose other than resolving their dispute.

Figure 2 shows the proportional breakdown of the total number of new TIO complaints over the last three financial years split by complaints about landlines, mobiles or the internet.

Figure 2: Total TIO complaints by internet, mobile or landline

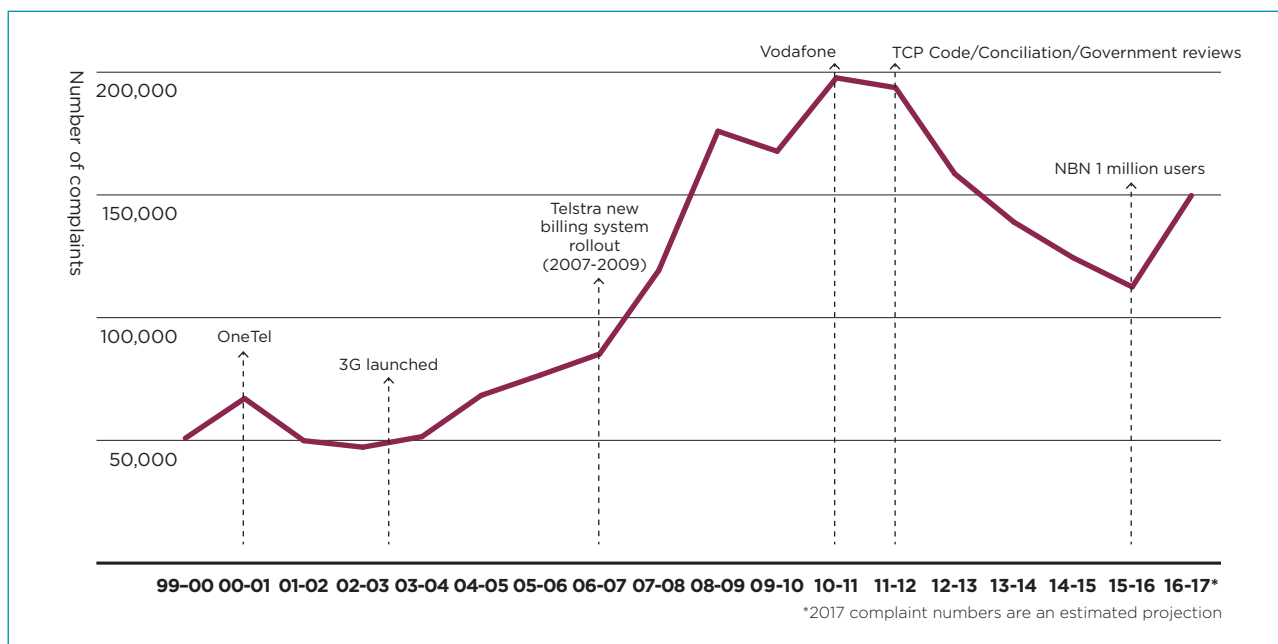


4. Telecommunications Industry Ombudsman complaint volume correlates with market place events

The TIO's data shows there can be a correlation between significant marketplace events and a higher volume of complaints to the TIO. Major events that have correlated with higher TIO complaint numbers include the collapse of OneTel, the rollout of a new billing system by Telstra, and the rapid expansion of Vodafone's network (illustrated in Figure 3).

Similarly, the rollout of the NBN is a significant marketplace event that correlates with increased numbers of complaints received by the TIO. The graph below shows that after a 43% reduction in the number of complaints to the TIO between 2011 and 2016, there was a sharp increase from July 2016. The sharp increase coincides with the accelerated rollout of the NBN.

Figure 3: The correlation between significant marketplace events and TIO complaint numbers



5. Recording complaints about services delivered over the NBN

In the context of services delivered over the NBN, the TIO records and resolves complaints between consumers and their retail service providers, based on the consumer's contract for the provision of services. The TIO also resolves complaints against NBN Co Ltd (nbn) for certain issues such as entry onto land and property damage.

The NBN supply chain involves a number of players. In addition to nbn and the retail service provider with whom the end user (consumer) contracts for the provision of services, the supply chain may also include wholesalers or aggregators.

Figure 4 illustrates the NBN supply chain and the TIO's role.

Information recorded about services delivered over the NBN

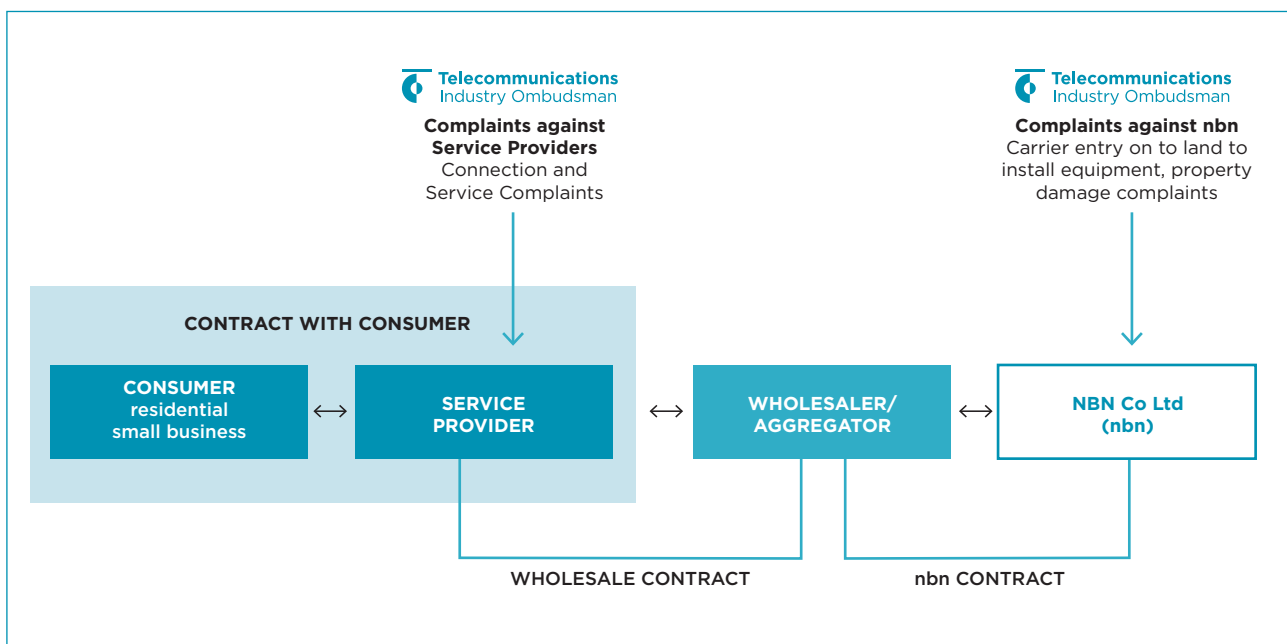
When the consumer describes a fault or connection problem, TIO staff are prompted to find out whether the complaint is about a service delivered over the NBN.

For all complaints, including NBN tagged complaints, the TIO collects postcodes and data about issues raised. Relevantly, the TIO records the following issues about services delivered over the NBN:

- connection to the NBN
- the performance of the service once it is connected (faults)
- objections to land access
- damage to property.

Data about TIO complaints about services connected over the NBN is outlined in section 6 of this Submission.

Figure 4: The NBN supply chain and the Telecommunications Industry Ombudsman's role



The Telecommunications Industry Ombudsman does not record information about technology type

When recording complaints about services delivered over the NBN, the TIO does not routinely record the technology type for the consumer's connection to the NBN.

This is for a number of reasons:

- Consumers do not generally know the technology type
- Where the complaint is being made by a referral agency (eg financial counsellor), the referral agency is unlikely to know the technology type
- Requiring a consumer to identify the technology type before accepting the complaint would introduce an unreasonable barrier to making a complaint to the TIO – and not align with the TIO's requirement to provide an accessible service
- It is not necessary to know the technology type to effectively refer complaints to the member for resolution - the vast majority of complaints (90%) are resolved by referral back to the member, without the TIO providing the technology type

- Identifying and recording the technology type would take additional resources, without a clear dispute resolution benefit
- It is currently not possible to automate the collection of this information.

Data reported

The TIO uses a business intelligence tool to extract data from the case management system for reporting in accordance with the TIO's Terms of Reference and the Treasury's Key Practices for Industry-based Customer Dispute Resolution.

As can be seen in the 2016 Annual Report, the TIO reports on the top issues consumers describe for all service types (landline, internet and mobile). The data collected also enables reporting on the type of consumer (residential or small business), and where the complaints originate according to post code.

The TIO reports separately on the issues raised in complaints. Section 6 of this submission provides more detail about data relating to services delivered over the NBN.

6. Insight into consumer complaints about services delivered over the NBN

Although the TIO is seeing an increase in complaints about services delivered over the NBN, the rate of increase in these complaints appears to be slower than the rate of new premises connected to the NBN.

The data the TIO collects about services delivered over the NBN can be reported by:

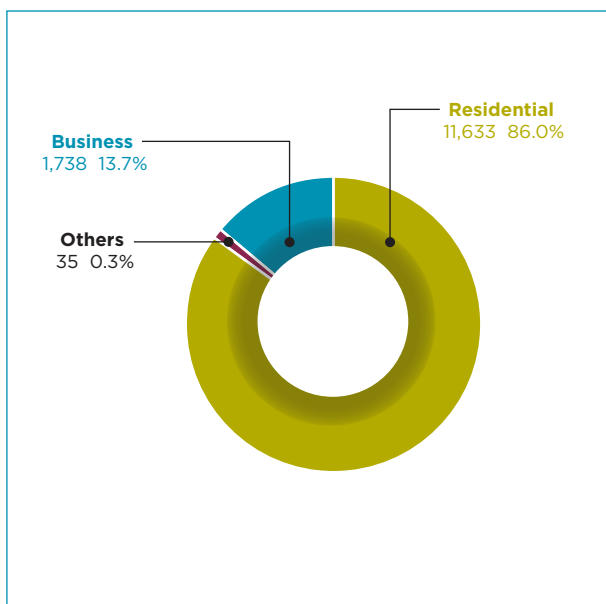
- the type of consumer and their postcode
- the issues described by the consumer.

6.1. Who complains about services delivered over the NBN?

The TIO receives complaints about services delivered over the NBN primarily from residential consumers, and the postcodes recorded are consistent with the pattern of connections to the NBN.

Figure 5 shows that in 2016 the majority of complaints about services delivered over the NBN were from residential consumers (86%), with small businesses accounting for 13.7% of complaints and the remainder (0.3%) received from not for profit and other organisations. This is broadly similar to the overall profile of consumers who complain to the TIO, as seen in the TIO's 2016 Annual Report.

Figure 5: The type of consumer who complains to the TIO about services delivered over the NBN



The distribution of complaints about services delivered over the NBN by state broadly reflects the representation of states and territories that have a higher number of premises activated on the NBN.⁴

Consumers who lodged a complaint with the TIO about services delivered over the NBN are located in every state and territory in Australia. In 2016, over three quarters of TIO complaints about services delivered over the NBN came from:

- NSW (4,800)
- Victoria (2,891)
- Queensland (2,687).

⁴ Based on the data published in the ACCC NBN Wholesale market indicator report 30 June 2016.

Figure 6: TIO complaints about services delivered over the NBN by state, as a proportion of all TIO complaints, and as a proportion of NBN activated premises by state

State	New complaints about services delivered over the NBN for FY2015-16	Percentage of all new complaints about services delivered over the NBN for FY2015-16	% NBN CVC capacity by State - 30 June 2016*
NSW	4,800	35.8%	35.3%
ACT	186	1.4%	
Vic	2,891	21.6%	27.6%
Tas	780	5.8%	
Qld	2,687	20.0%	20.3%
SA	858	6.4%	8.0%
NT	250	1.9%	
WA	781	5.8%	8.8%
(no postcode)	173	1.3%	
Total	13,406		

*Connectivity Virtual Circuit (CVC) are allocated to a state grouping based upon the state listed in respect of the CVCs in the report nbn provides to the ACCC pursuant to the NBN SIO Record Keeping Rules for the relevant calendar quarter (sourced from ACCC NBN Wholesale market indicator report <https://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-wholesale-market-indicators-report/reports> - 30 June 2016 reporting date)

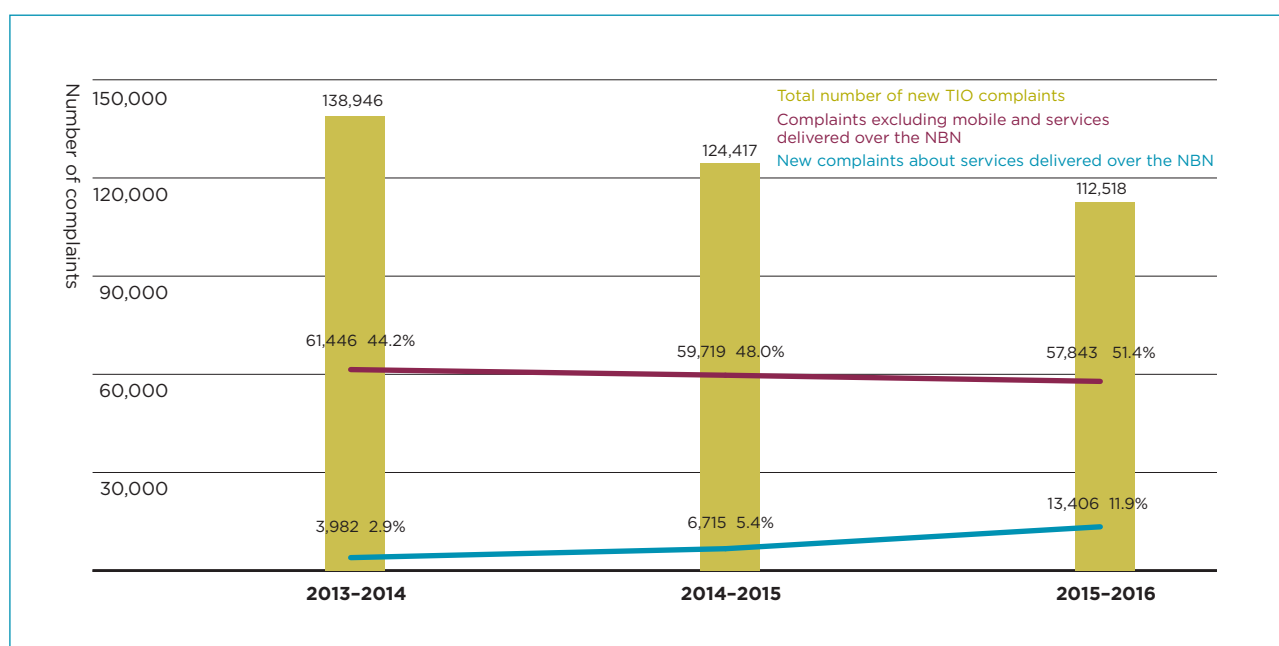
6.2. Low representation of complaints about services delivered over the NBN

In 2016, complaints about services delivered over the NBN represented 11.9% of all complaints received by the TIO. TIO complaints about services delivered over the NBN have increased over the past three years (see Figure 7). These numbers are expected to continue to increase – this is because the NBN rollout is accelerating, and the TIO’s overall complaints are increasing.

Figure 7 shows that the proportion of new complaints about services delivered over the NBN increased markedly in 2016 to be 11.9% of all new complaints compared to only 5.4% the previous year. The increase reflects the acceleration of the rollout.

Figure 7 also compares NBN complaints against total complaints excluding mobile and services delivered over the NBN.

Figure 7: Percentage of new complaints about services delivered over the NBN⁵



⁵ TIO Annual Reports for 2013-2014, 2014-2015 and 2015-2016

6.3. Issues in complaints about services delivered over the NBN

The data the TIO collects about issues raised in complaints about services delivered over the NBN can be broken down into two main categories:

- Connection issues
- Fault issues once connected.

The TIO reports data about complaint issues separately to data about complaint numbers. For each new complaint registered there can be more than one problem or issue described by the consumer. This therefore results in many more complaint issues recorded than there are complaints.

The TIO categorises complaint issues in broad first-tier categories, as shown in Figure 8 and then in second-tier categories, as shown in Figure 9.

Figure 8 shows first tier category issues. For complaints about services delivered over the NBN in 2016, the highest ranked first tier issues were “Connections” (5,548, 41.4%) and “Faults” (5,472, 40.8%). A higher representation of these issues were observed in complaints relating to services delivered over the NBN compared with all complaints in 2016 (14.2% connection issues and 34.1% fault issues). This reflects the main issues reported by consumers as part of the NBN rollout.

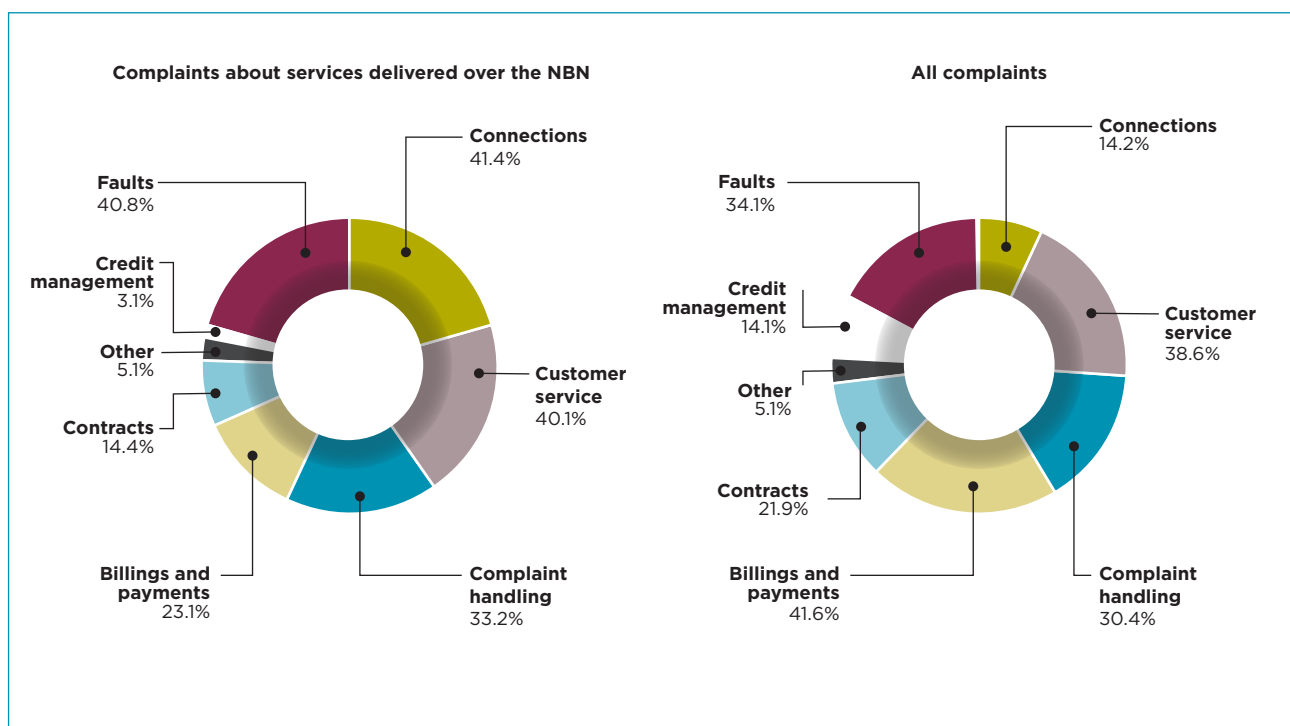
Figure 9 shows a comparison between the top second tier issues recorded for complaints about services delivered over the NBN and complaints about landline and internet services overall.

Figure 9: Top issues for complaints about landline and internet services compared with services delivered over the NBN

Issues	Landline and internet services overall ⁶	Services delivered over the NBN
Connection issues		
Internet - new connection delay	6,680	2,777
Landline - new connection delay	5,240	2,031
Fault issues		
Internet - slow data speed	7,663	1,226
Internet - fully unusable	6,994	1,251
Landline - fully unusable	5,260	1,384
Internet - drop outs	5,075	613

⁶ Includes wireless and satellite internet

Figure 8: First-tier complaint issues in complaints about services delivered over the NBN and for all complaints in 2016



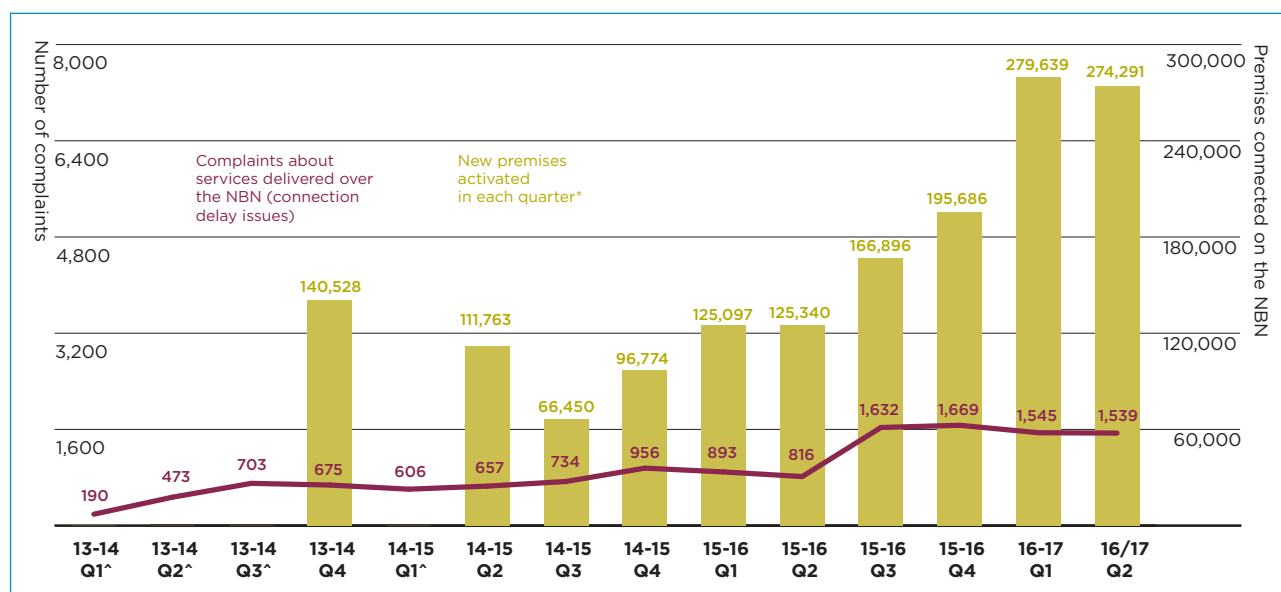
6.4. Connection issues

The primary type of complaint relating to connections is delay, making up 90% of all connection complaints about services delivered over the NBN. Key issues contributing to connection delays include missed technician appointments, infrastructure, and the complexity of some installations.

Although the data shows an increase in complaints about connections to the NBN, the rate of increase in these complaints appears to be slower than the rate of new premises being connected to the NBN.

Figure 10 shows the trend in the number of complaints relating to delay in connecting to the NBN compared with the number of new premises being activated on the NBN per quarter.

Figure 10: Connection delays and the number of new premises activated on the NBN in each quarter



Note:

* Figures are based on those reported in nbn's Weekly Progress Report (9 March 2017).⁷

[^] The number of new premises activated is reflected as zero where information is not available for the quarter.

⁷ NBN Co Ltd, *NBN rollout metrics* (Accessed on 22 March 2017: <http://www.nbnco.com.au/content/dam/nbnco2/documents/nbn-rollout-metrics/nbn-rollout-metrics-09032017.pdf>)

6.5. Fault issues

Information provided by consumers show common faults about services delivered over the NBN are unusable services and slow data speeds (see Figure 9).

Figure 11 shows the number of fault complaints for services delivered over the NBN in the context of the NBN roll-out. As shown in Figure 11, there is an increasing number of complaints about faults on services delivered over the NBN. As with connection delays, the rate of increase in fault issues appears to be slower than the rate of increase in the number of premises connected to the NBN.

6.6. Responding to NBN issues

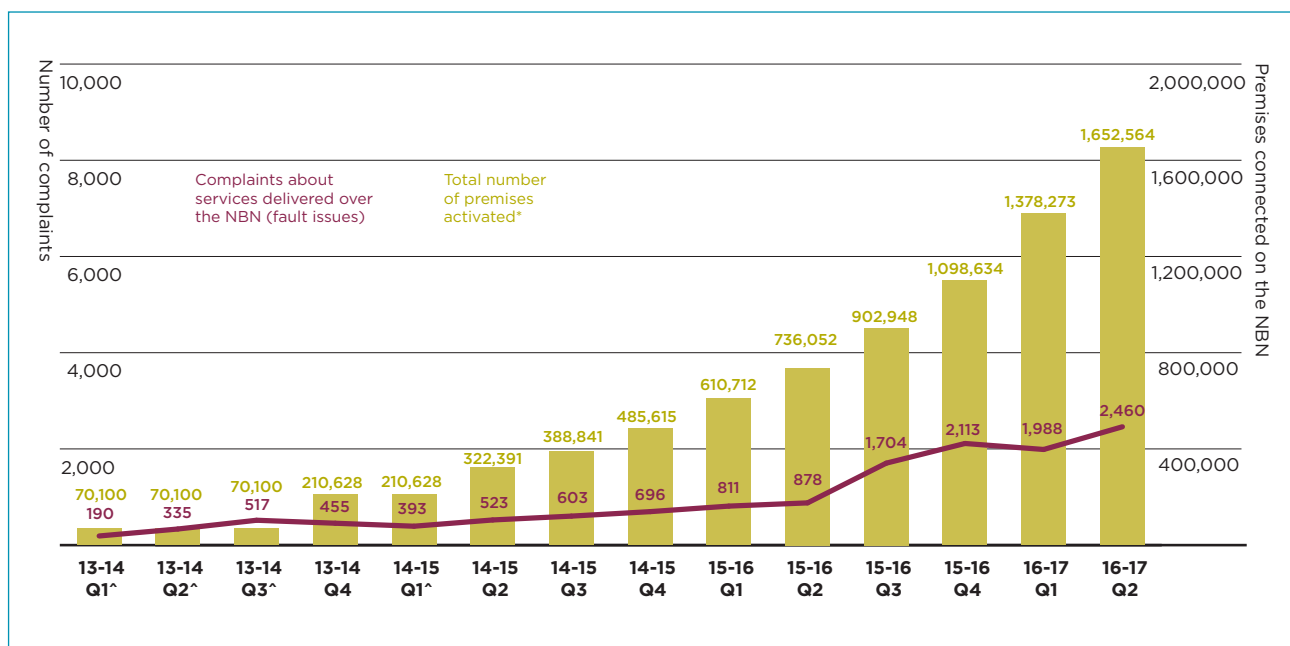
The TIO monitors complaint trends and becomes involved in a range of formal and informal discussions, including on issues about the NBN. The TIO facilitates meetings and discussions between retail service providers and nbn to highlight issues and to exchange information. Members are encouraged to take prompt action to resolve wider issues across the industry.

The TIO also engages with consumer organisations (including ACCAN), regulators (the ACMA and ACCC), representatives of the Department of Communications and the Arts, retail service providers and nbn to support the resolution of issues. The TIO does this by sharing insights to highlight the issues consumers identify and experience in the rollout of the NBN.

Examples of issues raised include:

- Technician appointment systems
- Infrastructure difficulties
- Sales and marketing practices
- Early termination fees
- Interim satellite service and SkyMuster

Figure 11: Fault complaints about services delivered over the NBN in the context of the NBN roll-out



Note:

* Figures are based on those reported in nbn's Weekly Progress Report (9 March 2017).⁸

^ The number of premises activated has been carried over from the previously reported quarter where information is not available for that quarter.

8 NBN Co Ltd, *NBN rollout metrics* (Accessed on 22 March 2017: <http://www.nbnco.com.au/content/dam/nbnco2/documents/nbn-rollout-metrics/nbn-rollout-metrics-09032017.pdf>)

Technician appointment systems

A common theme in complaints received about connections was dissatisfaction with the nbn technician appointment system. The Ombudsman met with senior nbn representatives in August 2016 to discuss possible enhancements to their technician appointment system. We understand that following the discussion, nbn amended its technician call out system so consumers who had already experienced a missed NBN technician appointment did not have to go to the back of the queue.

With the rollout of the NBN, many new retail service providers have entered the market. Difficulties can arise in the early stages for these new providers, resulting in complaints to the TIO. The TIO can provide early warning of problems, and work with the provider to resolve the issues to prevent the problems reoccurring or escalating.

In one example, the TIO observed a spike in complaints about delays in connecting to the NBN from customers of a new retail service provider entrant to the market. TIO staff engaged with the provider and discovered that the provider was not following the correct process for booking NBN connections. This allowed the provider to correct their processes.

Infrastructure difficulties

In some cases, consumers sign up to a service and discover that infrastructure needs to be repaired before a connection can be successful. In other cases, installations can be more complex than anticipated. Consumers can be left with a significant gap in connection as they have already disconnected from their previous internet service.

In these cases, the TIO requires the service provider to make an alternative service available to the consumer until the NBN can be connected.

Sales and marketing practices

The TIO has raised a number of issues about sales and marketing practices and point of sale information given about services delivered over the NBN.

In two cases relating to misleading point of sale information, the TIO raised with the providers possible breaches of the Australian Consumer Law and the *Telecommunications Consumer Protection Code 2015*. Both providers provided the TIO with their quality assurance and analysis of some sample calls. Both providers identified the same issues as identified by the TIO. To resolve the issue, one provider ceased telemarketing, changed to a digital marketing method of sourcing new customers and committed to improve its training. The other provider believed the incorrect point of sale advice was largely isolated; however, it still committed to continued call reviews and quality assessments.

Early termination fees

A possible broader issue was identified when a number of customers of a retail service provider complained that they were being charged early termination fees when they transferred their ADSL service to the NBN. When TIO staff raised this with the provider, the provider confirmed that customers should not be charged early termination fees. The member committed to update the information and procedures that its staff would follow to ensure that customers were not incorrectly charged an early termination fee.

Interim Satellite Service and Sky Muster

The TIO is aware of issues with satellite services. For example, at a meeting with retail service providers offering satellite broadband services to regional, rural and remote consumers, members told the TIO there were ongoing issues with service instability, service disruption and slow reconnection times associated with the satellite services.

The TIO has met with nbn to discuss how to better respond to complaints about satellite services. Following this, the TIO changed its process to notify nbn about complaints relating to satellite services.

