



**Telecommunications
Industry
Ombudsman**

**Simon Cohen
Ombudsman**

24 May 2013

CCAAC Secretariat
c/-The Manager
Consumer Policy Framework Unit
Competition and Consumer Policy Division
Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir or Madam,

Review of the Benchmarks for Industry-based Customer Dispute Resolution Schemes

Thank you for giving the Telecommunications Industry Ombudsman (TIO) the opportunity to provide comments on the Commonwealth Consumer Affairs Advisory Council's (CCAAC) *Review of the Benchmarks for Industry-based Customer Dispute Resolution Schemes*.

The TIO offers the following comments based on our practical application of the *Benchmarks Document* (also referred to as the National or DIST Benchmarks) over many years. The Benchmarks Document has an integral role at the TIO and guides a range of operational activities. The TIO Constitution features a commitment on the part of the TIO to the principles of Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness¹. Specifically, our Constitution states that in exercising our functions and jurisdiction, the TIO shall have regard to the Benchmarks Document.

The Benchmarks Document, and the TIO's commitment to it, provides a framework by which the TIO can be periodically reviewed to ensure our effectiveness. This has occurred most recently with the Department of Broadband, Communications and the Digital Economy (DBCDE) *Reform of the Telecommunications Industry Ombudsman* report (May 2012). The framework also facilitated the *Telecommunications Industry Ombudsman 2011 Scheme Review* by KPMG, commissioned by the Board of TIO Ltd. Both reviews have assisted the TIO in developing our strategic plan for the next three years, to ensure that our office continues to deliver against the Benchmarks Document.

For our staff, the Benchmarks Document has particular relevance. The principles are built into the performance agreements of every one of our staff members to provide visibility of how their roles contribute to the TIO's broader organisational commitment. The Benchmarks Document also informs

¹ *Clause 2A.1, TIO Constitution.*
"... providing independent, just, informal and speedy resolution of complaints"

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the instructional materials that the TIO provides to its staff via our intranet. This includes a summary of investigative ‘golden rules’ which guide our staff on how to incorporate the principles of the Benchmarks Document into their day-to-day dispute resolution work.

ANZOA submission to the CCAAC Review

The TIO notes, and has provided input into, the Australian and New Zealand Ombudsman Association (ANZOA) submission which is being tendered to the CCAAC Review. The TIO supports the ANZOA submission, in respect of both the value and relevance that it places on the Benchmarks, and also the suggestions that ANZOA has made to modernise and improve them.

The TIO would like to use this opportunity to convey how critical the Benchmarks are to the delivery of our own dispute resolution service and how they have, and continue to, inform a range of day-to-day activities and interactions with our stakeholders. We will briefly comment on each of the Benchmarks in the order that they appear in the CCAAC’s Issues paper.

Accessibility

The TIO works to improve the awareness of and accessibility to our office. In this regard, we believe that the principles and practices outlined in the Accessibility Benchmark remain very relevant and help guide our efforts to ensure that our service is accessible to as many stakeholders as possible.

The CCAAC has cited the importance of modern technology in fostering awareness and access, and the TIO supports this notion. Eighteen months ago, we introduced a new, more user-friendly website which has seen an increasing number of consumers report their complaints to the TIO using the online channel. During periods of high demand, our website attracts more than 3,500 visitors daily; it is a critical entry point to our office.

To ensure the TIO is as accessible as possible to consumers with different needs, we also make our services available by mail, in person, by TTY machine and through an interpreter service. The TIO has noted that, following targeted awareness raising activities among cultural intermediaries, the number of consumers accessing our office through the interpreter service has increased. Importantly, there is no monetary cost to the consumer, including when they submit a complaint through the interpreter service. The key practices under the Accessibility Benchmark continue to be very relevant to our office.

Independence

Independence is critical to an Ombudsman office and is a fundamental benchmark for the TIO. The key practices of the Independence benchmark have been important in ensuring that the TIO’s processes and decisions are objective (and seen to be objective) and are separate from our participating organisations (members).

Our staff are not answerable to, or selected by, scheme members and our policy approach to handling complaints is overseen by a Council comprising a balance of industry and consumer representatives. Our funding model ensures that consumers do not have to pay to access our services, but also charges service providers proportionally for the complaints we receive from their customers. Importantly, the fees the TIO charges reflect the cost of the services we deliver and we operate on a not-for-profit basis. There is therefore no element of penalty or fine for participating organisations.

Fairness

The TIO agrees that the underlying principles and key practices in the Fairness Benchmark remain highly relevant and appropriate to the needs of our stakeholders. Transparent and fair decision-making is central to the role of an Ombudsman’s office. The TIO achieves this through publishing Complaint Handling Procedures (CHPs) which state how we will deal with complaints, and set expectations around timeframes involved. Where a consumer or participating organisation believes that we have not followed the CHPs during the handling of a complaint, they have the option to ask for the complaint to be reviewed. This is a critical aspect of applying the principles of procedural fairness named as a key practice in the Fairness Benchmark.

The CCAAC has identified consistent processes and objective criteria as being important to the credibility of ADR schemes. The TIO commits to investigating and resolving complaints having regard to the law, good industry practice and what is fair and reasonable in the circumstances. This approach is not just embodied in our Position Statements, it is also an explicit commitment in our Constitution².

Accountability

The CCAAC has noted that the Accountability Benchmark is intended to ensure public confidence in industry schemes and the TIO agrees.

The TIO seeks to report on the substantial number of consumer complaints that come to our office, in a clear and informative way. In our annual report we inform stakeholders not only of the volume of complaints we have received, but also the extent to which the TIO was required to facilitate or investigate those complaints. We also provide real examples of cases which illustrate consumers' actual experiences in coming to our office, and how we helped them. This gives participating organisations, regulators and other community stakeholders good visibility of the types of complaints we deal with each day.

As well as our annual report, the TIO provides the community with visibility of complaints data in our quarterly *TIO Talks* publication. The TIO is also accountable to participating organisations and provides a comprehensive suite of monthly reports to assist service providers to identify key drivers and complaint trends that may require their attention.

Looking ahead, the TIO has as one of its strategic objectives the review of all published information to ensure that we are providing the most useful and informative material we can.

Efficiency

The TIO agrees that a benchmark based on efficiency continues to be a relevant one for industry-based dispute resolution offices to strive for. While the fairness and transparency of decision-making are critical to an Ombudsman's office, so too is timeliness.

The TIO faces fluctuating complaint demand and often revisits the processes it has in place to ensure that we are delivering as efficient a service as possible, for both consumers and participating organisations. We recognise the importance of resolving complaints quickly and effectively and, to this end, we have established timeframes for participating organisations to respond to, and resolve, individual complaints.

The bulk of consumer complaints to our office are resolved at the first or 'referral' stage of the complaints handling process, within ten business days. For matters that cannot be resolved through this referral process, having regard to the Efficiency Benchmark and its importance, we have instituted a conciliation process in order that matters can be dealt with more informally and speedily. The response from both consumers and service providers has been extremely positive.

The CCAAC has correctly observed that efficiency can be achieved in other areas such as identifying systemic issues and not just focusing on discrete consumer complaints. The TIO regards the early identification of, and intervention in, systemic issues as delivering real benefits for consumers and service providers. In this respect, the TIO has tasked its Systemic Investigators with a broader industry improvement role, to recognise the benefits for both service providers and their customers. Where the TIO can identify systems or process issues at an early and engage with the provider to discuss a resolution, our experience is that it leads to improved outcomes for consumers and fewer complaints. The Efficiency Benchmark therefore continues to have relevance beyond just individual consumer matters.

² *Clause 2A.2, TIO Constitution.*

Effectiveness

In its submission, ANZOA identifies the importance of the underlying principles and key practices in the Effectiveness Benchmark in guiding EDR offices to have sufficient scope and power to do the job they have been set up to do. The TIO agrees with this observation and notes the relevance of the benchmark in informing its own jurisdictional development and review activities.

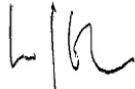
The TIO has instituted 2 separate and substantial changes to its monetary limits over the past three years, increasing the power to make binding decisions in individual complaints from \$10,000 to \$50,000 over this period. The TIO's power to make recommendations has increased from \$50,000 to \$100,000 over the same period.

The TIO is presently implementing changes to its jurisdiction to increase the time limits for when consumers and small businesses can bring complaints to us. The changes mean that the TIO has substantially increased its scope to assist consumers who have been trying unsuccessfully to resolve matters privately, and with their service providers, for long periods of time.

Both the changes in respect of monetary limits and time limits were prompted by the changing nature of disputes that the TIO was being asked to investigate. The Effectiveness Benchmark and its underlying principles, which require industry schemes to have the appropriate power to deal with the bulk of consumer complaints, is therefore still highly relevant.

In summary, the TIO supports the ANZOA submission to the CCAAC Review and hopes that the information provided above reflects the ongoing relevance of the Benchmarks to the delivery of the TIO's service.

Yours sincerely



Simon Cohen
Ombudsman