

# Response to the Recommendations of the 2017 Independent Review of the Telecommunications Industry Ombudsman

December 2017

The Telecommunications Industry Ombudsman welcomes the recommendations from the Independent Review of the Telecommunications Industry Ombudsman.

The review recognises the Telecommunications Industry Ombudsman's role and success in contributing to better consumer outcomes in the telecommunications industry. The review notes there is a high level of support for the Telecommunications Industry Ombudsman from most stakeholder groups and recognises the various challenges of operating as a high volume complaint resolution service in a complex and fast moving industry.

The review recommends the Telecommunications Industry Ombudsman takes a stronger stance to support the regulatory framework and significantly expands its systemic investigation capacity. It supports the Telecommunications Industry Ombudsman's recent changes to its Terms of Reference to involve carriers and wholesalers in complaint resolution. The recommendations also reflect the widespread interest in the insights the Telecommunications Industry Ombudsman's data can provide about the consumer experience.

The Telecommunications Industry Ombudsman has already commenced the implementation of some of the recommendations, and will continue to incorporate the Report's findings and recommendations in its priorities for the next financial year. Where a recommendation is supported 'in principle', the Telecommunications Industry Ombudsman accepts the value of what is being proposed and will investigate how best to achieve the desired outcome.

Recommendation	Response	Future implementation
1. The TIO should ensure that stakeholders understand and accept its role as an important support of the telecommunications industry co-regulatory model. The TIO should: a) give more focus and resources to working with regulators and industry to minimise complaints through activities including development of Codes, publishing the TIO's approach to commonly occurring complaints, addressing poor practices by	<b>Supported</b>	The Telecommunications Industry Ombudsman will include this priority in the development of its communications strategy.  The Telecommunications Industry Ombudsman will commence a broad review of its Terms of Reference in 2018 and will consult with stakeholders as this work develops.

<p>telecommunications providers and making its complaints data and insights publicly available;</p> <p>b) legitimise and support these activities through amendments to the roles statements in the Terms of Reference; and</p> <p>c) give prominence to these functions in its public communications about its role and functions.</p> <p>The TIO Board should be seen to actively support and defend this broader role and ensure that the scheme is resourced and capable of fulfilling these vital responsibilities.</p>		
<p>2. The TIO should revise its Terms of Reference for clarity and greater definition as to the scope of the TIO's remit and its complaints handling process. Proposed changes should be tested via a full stakeholder consultation process.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will commence a broad review of its Terms of Reference in 2018 and will consult with stakeholders as this work develops.</p> <p>On 26 September 2017, the Telecommunications Industry Ombudsman's Board amended the Terms of Reference to more clearly reflect the Ombudsman's legislative powers and clarify the involvement of carriers and wholesalers in complaint resolution (see Recommendations 9 and 10). More information on these changes can be found at <a href="http://www.tio.com.au/publications/news/reviced-terms-of-reference-published-today">http://www.tio.com.au/publications/news/reviced-terms-of-reference-published-today</a>.</p>
<p>3. To make it easier for consumers and small businesses to find and navigate the TIO's assistance material, the TIO should:</p> <p>a) review and rewrite its website guidance about its complaints handling process, to consolidate the guidance; and</p> <p>b) include consumer guidance in languages other</p>	<p><b>Supported</b></p>	<p>Building on the existing material and brochure in various languages, the Telecommunications Industry Ombudsman will undertake a review of its website in 2018. This includes a revision of website guidance for consumers and small businesses. Accessibility and ease of navigation will be a priority in the revised website.</p> <p>The Telecommunications Industry Ombudsman's website has a range of resources to assist consumers and small businesses to access its services. This</p>

<p>than English that are commonly spoken in Australia.</p>		<p>includes a multilingual brochure with information on how to access the service in 32 languages.</p>
<p>4. The TIO should provide more guidance on its website on its approach to commonly occurring complaints, by publishing:</p> <ul style="list-style-type: none"> <li>a) all Ombudsman Determinations – on an anonymised basis;</li> <li>b) a sample of decisions (appropriately anonymous) to stop handling a complaint on the basis that it is fair and reasonable to do so (Terms of Reference paragraph 3.20 decisions);</li> <li>c) a more extensive body of case studies including those from TIO Annual Reports – explaining the facts, the information obtained by the TIO to test assertions, the outcome and why the outcome was fair and reasonable; and</li> <li>d) maintaining Position Statements (or equivalent authoritative guidance) by regularly updating these and developing new guidance as required – and ensuring that they are readily locatable on the TIO’s website.</li> </ul>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman agrees it is important to provide guidance on commonly occurring complaints, and will be revising the guidance documents made available publicly. Greater access to information (such as anonymised determinations and case studies) will be included in the review of the Telecommunications Industry Ombudsman website in 2018.</p>
<p>5. The TIO should strengthen its program of team leader monitoring of randomly selected telephone calls for each officer within their team. This should include more robust management reporting and action to address instances of below–standard customer service.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will review the reporting structure for call monitoring as part of a broader review of its complaint handling approach in 2018.</p> <p>The Telecommunications Industry Ombudsman has a process in place for team leaders to monitor and provide feedback on calls attended to by complaint handling staff. This provides an important mechanism for coaching purposes and continuous improvement of our complaint handling processes.</p>

<p>6. The TIO should request that Communications Alliance or the Office of the Information Commissioner convene a roundtable with stakeholders to explore whether the TIO's current practices strike the right balance between ensuring access to the TIO and protection against the risk of breach of customer privacy or identity fraud.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will raise this issue at the next regular meeting with the Office of the Australian Information Commissioner.</p>
<p>7. The TIO should undertake a limited exercise of periodic telephone surveying of a randomly selected group of consumers whose complaint does not return to the TIO as a conciliated (Level 2) complaint – to check that they were satisfied that their complaint was reasonably and fairly dealt with by the provider and, if not, why they did not pursue their complaint through the TIO. This data should be collated and analysed with a view to identifying any weaknesses in the process that should be addressed and trends over time.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will include this as one of the priorities in the 2019 Business Plan.</p>
<p>8. The TIO should broaden its efforts to work with industry to see if there are ways in which together they can reduce conciliation and investigation timeframes. The TIO should:</p> <ul style="list-style-type: none"> <li>a) look to the experience of other ombudsman scheme to see what other collaborative techniques may be applicable;</li> <li>b) be more active in following up response deadlines imposed on telecommunications providers and develop a suite of responses to address repeat instances of failure to meet</li> </ul>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will continue to work with industry and other stakeholders to improve timeframes and compliance with response deadlines.</p> <p>The Telecommunications Industry Ombudsman will also continue to investigate and implement system improvements and new capability to reduce conciliation and investigation timeframes.</p>

<p>deadlines; and</p> <p>c) continuously investigate potential systems improvements and new capability to help to reduce timeframes.</p>		
<p>9. The TIO should discuss with the Department of Communications and the Arts and the ACMA the merits of all wholesalers being required to join the TIO. Achieving this is likely to require the amendment of the Telecommunications (Consumer Protection and Services Standards) Act 1999.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will continue discussions with the Australian Communications and Media Authority (ACMA) about enforcing membership of the scheme.</p> <p>The Telecommunications Industry Ombudsman is confident that the current legislation already requires wholesalers to be members of the Telecommunications Industry Ombudsman scheme and the Board has recently amended the Terms of Reference to reflect this legislative requirement (see Recommendation 10).</p>
<p>10. The TIO should amend its Terms of Reference so that:</p> <p>a) where the TIO considers it appropriate, the TIO may join another telecommunications provider as a party to a complaint by a consumer against a service provider. The Terms of Reference should apply to a joined telecommunications provider in the same way as if the complaint was against the provider and TIO complaint fees should be able to be charged to the joined telecommunications provider; and</p> <p>b) a TIO member is obliged to comply with any request made by the TIO in the course of handling a complaint, even if the TIO member is not a party to the complaint.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman has already implemented measures in line with this recommendation.</p> <p>On 26 September 2017, the Telecommunications Industry Ombudsman's Board revised the Terms of Reference to more clearly reflect the Ombudsman's legislative powers and clarify the involvement of carriers and wholesalers in complaint resolution.</p> <p>This change clarifies the Telecommunications Industry Ombudsman's power to require information from and involve members who are not party to a Telecommunications Industry Ombudsman complaint, where this is necessary to resolve the complaint.</p> <p>The Telecommunications Industry Ombudsman will consider the approach to fees for involving other parties in a complaint once the funding review is concluded in the first half of 2018.</p>
<p>11. The TIO should take the necessary steps to amend its Terms of Reference to permit senior</p>	<p><b>Supported</b> in principle</p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the potential benefits of delegated decision making, and will include</p>

staff (perhaps designated as Adjudicators) to make decisions (both Preliminary Views and Determinations) in relation to lower value, more straight forward complaints.		consideration of this issue as part of the review of its complaint handling processes in 2018.
12. The TIO should streamline its decision making processes for straight forward matters to enable these to proceed straight to a Determination without a Preliminary View first being issued.	<b>Supported</b> in principle	The Telecommunications Industry Ombudsman agrees in principle with streamlining decision making, and will include consideration of this issue as part of the review of its complaint handling processes in 2018.
13. The TIO should work with large telecommunications providers to streamline its reclassification processes, for example, to enable these to be submitted in batches with brief details set out in a spreadsheet and supporting documents attached. The internal reclassification decision appeal process should be dispensed with.	<b>Supported</b>	The Telecommunications Industry Ombudsman will include consideration of this issue as part of the review of its complaint handling processes in 2018.  The Telecommunications Industry Ombudsman will engage with members with a view to removing the reclassification appeal process.
14. Where the TIO refers to non-binding industry guidance when handling a complaint, the TIO should do so in a way that focuses on the intent of the guidance document.	<b>Supported</b>	The Telecommunications Industry Ombudsman believes it has the right balance in implementing guidance and will continue to use industry guidance as relevant and required.
15. The TIO should publish TIO guidance as to how it will deal with complaints about a telecommunications provider's non-compliance with broadband speed sales claims. This should refer to the ACCC's guidance as to the principles that should be met to ensure that broadband speed sales claims are not misleading.	<b>Supported</b> in principle	The Telecommunications Industry Ombudsman agrees in principle with the need to review its published guidance in this area and will consider how best to reflect the ACCC's guidance on broadband speed claims. Since the receipt of this report, the Australian Competition and Consumer Commission (ACCC) has published two enforceable undertakings, which the Telecommunications Industry Ombudsman now applies to resolve speed complaints.

<p>16. The TIO should take additional steps to build its telecommunications technical competency, including:</p> <ul style="list-style-type: none"> <li>a) recruitment of additional telecommunications experts to assist with training, advice, quality assurance and the development of TIO published guidance that involves technical issues;</li> <li>b) drawing upon telecommunications providers' resources to enhance TIO training for its staff; and</li> <li>c) establishing a technical panel that could be used to provide occasional advice, where the TIO considers that panel advice would assist, on a confidential basis, about issues arising in complex technical complaints.</li> </ul>	<p><b>Supported</b> in principle</p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the need for adequate technical competency. The Telecommunications Industry Ombudsman employs technical and regulatory experts with significant telecommunications experience and prioritises the ongoing development of technical expertise within the organisation. These experts design and deliver training to dispute resolution staff.</p> <p>The Telecommunications Industry Ombudsman believes there are more effective ways than establishing a technical panel to ensure a sufficient level of technical expertise.</p> <p>The Telecommunications Industry Ombudsman will consider ways to draw on the telecommunications providers' expertise while preserving the independence of the office.</p>
<p>17. A small proportion of TIO internal reviews for consumers whose complaint has been closed (perhaps 10%) should be undertaken by an appropriately experienced person from outside the dispute resolution division to provide a calibration of 'overturn rates' by the dispute resolution specialists. If differences in results do emerge, reasons should be investigated and addressed as appropriate.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will include this recommendation as part of the review of its complaint handling processes in 2018.</p>
<p>18. The TIO should increase the resourcing of its systemic issues team (in our view, by more than double) including at least one data analyst so as to better identify potentially systemic issues, to enable the team to take on more matters and to progress systemic investigations in a more</p>	<p><b>Supported</b> in principle</p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the need to adequately resource its approach to systemic issues, and has allocated additional resources in response to this recommendation. The Telecommunications Industry Ombudsman will review the approach to</p>

<p>timely fashion. To at least partially fund the work of the team, the TIO should generally, and where appropriate, charge systemic issues investigation fees.</p>		<p>systemic issues in 2018 to determine whether additional resourcing is required.</p> <p>The Telecommunications Industry Ombudsman will consider whether to charge fees for systemic investigations once the funding review is concluded in 2018.</p>
<p>19. The TIO's systemic issues team should analyse the TIO's complaints database to identify potentially systemic issues pertaining to the national broadband network rollout and performance and pursue those issues consistent with its normal procedures.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman has recently changed its Terms of Reference that clarify the circumstances in which systemic issues can be raised with members (see also Recommendations 9 and 10). The work of the systemic issues team will include issues relating to services delivered over the National Broadband Network (NBN).</p>
<p>20. The TIO's systemic issues team should have the capability to analyse the TIO's complaints database to proactively identify telecommunications providers that have been subject to repeat claims of misleading sales practices and unauthorised transfers. Where an investigation confirms that the misconduct is systemic, the TIO should report the telecommunications provider to the ACCC.</p>	<p><b>Supported</b></p>	<p>This is already part of the work being done by the Telecommunications Industry Ombudsman.</p> <p>The Telecommunications Industry Ombudsman agrees that misleading and deceptive sales practices and unauthorised transfers are a serious concern in the telecommunications industry.</p> <p>The Telecommunications Industry Ombudsman has reported such practices to the Australian Competition and Consumer Commission (ACCC) on several occasions and has provided information under notice, resulting in successful ACCC prosecutions.</p>
<p>21. Where a telecommunications provider makes it clear that it does not accept the TIO's view that its practice constitutes systemic non-compliance, the TIO should promptly escalate the matter to a more senior level at the provider and make a recommendation under paragraph</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will continue to work with the Australian Communications and Media Authority (ACMA) to address non-compliance.</p> <p>The Telecommunications Industry Ombudsman regularly escalates systemic investigations within telecommunications providers and to the ACMA.</p>



<p>5.2 of the Terms of Reference that is referred to both the provider and the relevant regulator.</p>		<p>The Telecommunications Industry Ombudsman supports suggestions to strengthen systemic investigations by taking more assertive action to address systemic non-compliance by providers.</p>
<p>22. The TIO should provide more public transparency about its systemic issues work and processes. By way of example, we think that the TIO should report:</p> <ul style="list-style-type: none"> <li>• how the TIO identifies potentially systemic issues and the number of such matters the systemic issues team assessed;</li> <li>• the number of matters that reached each of the subsequent stages of the TIO’s systemic issues process;</li> <li>• a list of the issues canvassed in systemic investigations;</li> <li>• a list of the outcomes achieved as a result of this work;</li> <li>• the number of providers who were referred by the TIO to a regulator because of a systemic issue and any publicly known outcomes of these referrals; and</li> <li>• case studies from the systemic issues work.</li> </ul>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will increase transparency of its work on systemic issues in 2018 by publishing more information on its website and in the Annual Report. This will include the Telecommunications Industry Ombudsman’s approach to systemic issues, outcomes, referrals to the regulator, and case studies.</p>
<p>23. The TIO should discuss with large telecommunications providers the possibility of the TIO providing individualised, private reporting designed to enable the telecommunications provider to better understand their complaints performance. This could be done on a cost recovery basis.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman agrees with the importance of using data to support better complaint handling and will engage in discussions with providers to ensure that complaint reporting helps providers to understand their complaints performance.</p>

<p>24. The TIO should fully resource its legislatively-recognised role of contributing to the development and review of codes. A particular priority should be the review of the Telecommunications Consumer Protection Code due this year. When contributing to that review, the TIO should analyse complaints trends and use its experience with systemic investigations to identify enhancements that would promote fairness and would assist in minimising complaints. In particular, the TIO should consider whether to propose:</p> <ul style="list-style-type: none"> <li>a) enhancements to the responsible credit provisions;</li> <li>b) the introduction of measures to minimise the occurrence of vulnerable consumers suffering third party financial abuse; and</li> <li>c) the introduction of guidance as to the authentication steps that a telecommunications provider should undertake when dealing with a person purporting to be an existing customer.</li> </ul>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will contribute its views to the review of the Telecommunications Consumer Protections Code currently in progress and will consider the matters raised in this recommendation as part of its strategic response to the issues raised.</p>
<p>25. The TIO should make it clear to stakeholders that it is prepared to continue to refine its new keyword classifications over time, including by:</p> <ul style="list-style-type: none"> <li>a) Revisiting its service categorisations to see whether sub-category enhancements can be feasibly implemented, in particular, new/ existing service and the delivery technology: fixed line/ cable/ fibre/ wireless/ satellite; and</li> <li>b) Undertaking a post-implementation review of recent changes to the keyword descriptors that categorise complaint issues, (say) after the TIO has released its December 2017 complaints</li> </ul>	<p><b>Supported in principle.</b></p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the need to continually refine its data collection and reporting. From 1 July 2017, the TIO implemented a new data collection and reporting model for service types and key words used when recording complaints from residential consumers and small businesses. This model increased the service types from three to five and reduced key words from 285 to 76 to improve consistency of recording of issues raised in complaints.</p> <p>The Telecommunications Industry Ombudsman has established a plan to monitor the new model over the coming months to ensure it is effective and is engaging with stakeholders on the results.</p>

<p>report. TIO's stakeholders should be informed of the review and given adequate time to offer their views. The results of the review should be published explaining any further changes to the keywords.</p>		<p>The Telecommunications Industry Ombudsman needs to balance the collection of granular data with the practicalities of what information it can source from consumers and small businesses, and the need to prioritise the delivery of an accessible and efficient complaint resolution service.</p> <p>The Telecommunications Industry Ombudsman will continue to explore the possibility of automating the collection of technology type.</p>
<p>26. While acknowledging the difficulties and limitations, the TIO should provide more detailed public reporting including information profiling telecommunications providers, information about users of the TIO's services, a categorisation of enquiries including the bases for the TIO excluding complaints, more granularity about complaint issues and more information about outcomes of complaints, complaints involving services through the national broadband network and systemic issues.</p>	<p><b>Supported</b> in principle.</p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the need to continually refine its data collection and reporting. The Telecommunications Industry Ombudsman will review its public reporting of enquiries, exclusions and outcomes of complaints, including about services delivered over the National Broadband Network and systemic issues.</p> <p>Refer to Recommendations 22 and 25.</p>
<p>27. The TIO should enhance its stakeholder engagement by:</p> <ul style="list-style-type: none"> <li>a) being more open and consultative with stakeholders where the TIO reviews or changes its structures, systems or procedures;</li> <li>b) holding a conference for telecommunications providers – to be repeated in subsequent years if successful;</li> <li>c) establishing a consumer advisory group of representatives who work directly with the TIO – to meet twice per year to provide feedback about consumers' experience of telecommunications providers' products and</li> </ul>	<p><b>Supported</b> in principle.</p>	<p>The Telecommunications Industry Ombudsman agrees in principle with the need to continually enhance its stakeholder engagement. The Telecommunications Industry Ombudsman regularly undertakes consultation with members on key aspects of its operations. Over the past year, the Telecommunications Industry Ombudsman has conducted consultations about aspects of its operations that affect members, including funding and Terms of Reference changes.</p> <p>The Telecommunications Industry Ombudsman has been running successful small member forums across Australia.</p> <p>The Telecommunications Industry Ombudsman will assess the practicality of holding a conference for telecommunications providers. In the meantime, the</p>

<p>services and complaints handling and their experience of the TIO's complaints handling;</p> <p>d) instead of the current ad hoc meetings, having a structured program of meetings (perhaps quarterly) with each of the Department of Communications and the Arts, the ACMA and the ACCC, some of which could be joint meetings; and</p> <p>e) broadening the contacts available to the Department of Communications and the Arts, the ACMA and the ACCC to include some key officers, for example, those with responsibility for functions of most interest to government such as the members register and systemic issues.</p>		<p>Telecommunications Industry Ombudsman will continue to conduct small member forums.</p> <p>The Telecommunications Industry Ombudsman will establish a consumer advisory panel in 2018.</p> <p>The Telecommunications Industry Ombudsman is establishing a regular meeting schedule with the Department, the ACMA and ACCC, and will continue to meet at various levels, as appropriate.</p>
<p>28. Reporting to the TIO Board about complaints about the TIO's performance should encompass all issues raised in complaints, not just the issue judged to be the most significant issue.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will consult with the Board in 2018 about how it reports to the Board on complaints and compliments received.</p>
<p>29. The TIO should institute telephone call recording. Recordings should be retained for at least 1 month so that if a complaint is made about an officer's telephone conduct the TIO is in a position to properly review, and if appropriate, address the conduct.</p>	<p><b>Supported</b></p>	<p>The Telecommunications Industry Ombudsman will implement this in the first half of 2018.</p>