

# Consumer guide to compensation for financial loss



The Telecommunications Industry Ombudsman can consider a claim for financial loss caused by a breach of an obligation that a provider owes a consumer.

The amount of compensation we can direct a provider to pay must be under \$50,000. We can recommend a provider pay more – up to \$100,000 – but this amount won't be binding. If the compensation you are seeking is higher than these amounts we may decide a court or tribunal is more appropriate for your claim.

If you want to make a claim, you will need to give us evidence of the loss you say your provider caused.

## When will we consider a financial loss claim?

We will consider a claim for financial loss that you say was caused by a provider's breach of an obligation under a contract, law or industry code. This includes **out-of-pocket expenses** and **lost profit**.

Examples include:

- Costs of repairing property damaged by a provider
- Lost business profit caused by faulty services
- Costs of having to pay for alternative services when a provider does not supply agreed services.

We do not consider any of the following:

- time spent and costs of making a complaint to the Telecommunications Industry Ombudsman
- inconvenience
- loss of business reputation
- compensation to punish or penalise a provider.

In limited circumstances, we may consider a claim for the costs for independent expert assistance to prepare a claim, but these costs are generally not claimable.

## Who can make a claim?

We can consider your claim only if you are the provider's customer. We do not accept claims by third parties.

## How we assess claims

We assess claims by:

- determining if there was a breach by the provider
- assessing if the breach caused the loss you are claiming
- determining the amount of loss.

## Out of pocket expenses

We will ask you for receipts for any out of pocket expenses you claim. You will need to explain why you had to spend the amounts you are claiming.

### Loss of income

If you are claiming loss of personal income (such as missing a shift at work), you will need to give us evidence to show that you would have earned the income, if your provider had not breached its obligation to you. This might include a letter from your employer and pay slips to show what you are usually paid.

## Loss of business

If you are making a claim for business loss, you will need to give us documents that show the loss. This can be a time-consuming process, but it is important that you do it correctly and do not make your claim before you have the documentation ready.

At a minimum, you will need to give us:

- A profit-and-loss statement for the period that the breach occurred, prepared by an accountant. For example, if the business' services were not working for the month of May, you will need to give us profit and loss statements for May and the surrounding months

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- Comparative profit-and-loss statements for at least two years. We need to see how the fault period in the year in question compares to the same period in other years
- Details and evidence to show how your business makes income and how the breach impacted you
- Details of the steps you took to minimise the loss.

If there is an ongoing fault affecting your ability to trade, keep records of what the effect is. For example, keep emails from customers or business partners about difficulty contacting you, or keep a diary of issues as they arise.

## Making a claim

If we decide that we can investigate your claim, we will ask you to give us evidence within 3 to 4 weeks. If you want us to consider your claim for loss, you should make sure that you have all of your evidence before we start our investigation.

If you cannot give us evidence to show the loss, your claim will not succeed.