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To: Public Consultation <PublicConsultation@tio.com.au>
CC: Jane Edwards <[REDACTED]>

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Dear TIO

I appreciate the opportunity to comment on the proposed changes to your Terms of Reference.

Ombudsmen are able to help redress the power imbalance between a larger company and individuals or small business customers, as well as providing a cost effective, readily available and easily accessed option for resolving disputes. Ombudsmen also form a valuable part of the overall regulatory and consumer protection frameworks within their industry sectors. However, all this is based on their jurisdiction being appropriate and wide enough that they are able to investigate the right issues. What is considered an appropriate jurisdiction can change over time, as community expectations change.

The Commonwealth CDR Benchmarks require industry dispute resolution schemes to be effective by having an appropriate and comprehensive jurisdiction, with the scope of a scheme being sufficient to deal with the vast majority of complaints in the relevant sector or service area.

My opinion is that your proposed changes to your Terms of Reference are valuable and a good start, but that they do not go far enough.

In particular, I note that the TIO does not investigate all land/property cases, in particular cases where a contractor does not have exclusive possession of the land. It seems to me that this distinction (ie a contractor or neighbouring property owner) is a bit artificial, as someone who is not in exclusive possession of the relevant land can still be directly affected by the actions of a telecommunications company, particularly where the carrier is attempting to recover costs for infrastructure damage.

I note that your current approach seems inconsistent with other industry-based Ombudsman, most notably Energy and Water Ombudsman schemes which all investigate matters where customers are directly affected by the actions of their members. This includes scenarios where the person/small business is being pursued for costs relating to infrastructure damage.

I have personal experience of this issue in a dispute with [REDACTED] where [REDACTED] has:

- Refused to provide any real information (despite repeated requests) about the damage caused
- Not provided any evidence to substantiate that the damage was caused by us (despite repeated requests)
- Not provided any information or evidence to show that the completed works were necessary rather than incidental/ancillary (despite repeated requests)
- Not provided options for escalating the matter within [REDACTED], and failed to respond to the complaint/stay in contact, closing the complaint instead
- Referred the matter back to the Damages team and the original case handler rather than having the outcome reviewed by someone other than the original decision maker (in conflict with clause 5.2.2 of the Australian Standard/Guideline for Complaint Management in Organisations)
- Referred the matter to external collections numerous times while the dispute is still ongoing, in contravention of the ASIC/ACCC debt recovery guideline

As the TIO is currently unable to investigate the matter, my fencer and I are effectively left in limbo waiting for further debt collection or the matter being taken to the Magistrates' Court, with no viable options (there is no cause of action which could be taken to VCAT). Given our experience, it is highly likely there are others who have gone through the same thing, possibly ending up paying charges for which they are not responsible or which are higher than they should pay, simply because there is a serious power imbalance and [REDACTED] is able refuse to provide information and to pursue debt recovery aggressively.

As noted above, I think expanding the definition of consumer in the TIO's Terms of Reference is a good idea, however I don't think the proposal goes far enough to ensure the TIO has a truly effective jurisdiction which is comprehensive as per the CDR Benchmarks.

I think that most members of the community would expect that the TIO would be able to investigate cases where a telecommunications company like [REDACTED] is seeking costs for alleged infrastructure damage where a person or small business is linked to that invoice, even if they are not in exclusive possession of the relevant land. They are still directly affected by the actions of the telecommunications company, in that they are being pursued for the costs.

If the TIO's Terms of Reference were amended to allow investigation of these types of complaints, it would bring the TIO's jurisdiction in line with other Ombudsmen schemes that investigate utility disputes and therefore would also bring it more in line with community expectations.

Kind regards
Jane Edwards