

15 September 2025

Productivity Commission
GPO Box 1428
Canberra City ACT 2601, Australia

Dear Productivity Commission

TIO submission to the Harnessing data and digital technology inquiry

Thank you for the opportunity to comment on the interim report (the report) of the Harnessing data and digital technology inquiry.

The Telecommunications Industry Ombudsman (TIO) helps people, small businesses and not-for-profit organisations to resolve their phone and internet disputes. Our dispute resolution services are free, fair, and independent. When resolving complaints, we take into account the law, best practice and what's fair and reasonable in the circumstances of each complaint.

The Productivity Commission's report highlights the benefits to productivity from digital technology, particularly Artificial Intelligence (AI) and data access. A growing number of Australian businesses, particularly small businesses, depend on digital platforms, many of which use AI to reach consumers.¹ Digital platforms offer Australian small businesses a cost-effective way of doing business and access to broader consumer markets. They are also major drivers of productivity growth in our economy.²

However, the risks posed by digital platforms and AI must be managed, and when things go wrong, consumers need adequate avenues for resolution. As digital technology continues to play a greater role in the way Australians live and work, more users are approaching the TIO with complaints relating to digital platforms, which are currently outside of our jurisdiction.³

The TIO supports a proportionate, risk-based, and outcomes-based regulatory approach to addressing potential harms from using AI as recommended by the Productivity Commission. We believe that the establishment of an External Dispute Resolution (EDR) scheme for digital platform complaints, as recommended by the Australian Competition and Consumer Commission (ACCC), will provide an efficient, effective solution to addressing harms associated with digital platforms.

¹ ACCC (2022) [Digital Platform Services Inquiry Interim Report No.5](#)

² ACCC (2025) [Key findings on the final report of the Digital Platform Services Inquiry 2020-25](#)

³ Over 500 users contacted the TIO in 2023 and 2024; over 60% related to access and account complaints

The TIO has long called for the extension of its current jurisdiction to include digital platform complaints, which represents a natural extension of the scheme to reflect the evolving communications market.⁴

We provide the following comments on draft recommendations 1.1, 1.2, and 2.1, which present important possibilities for implementing flexible and adaptive regulations that protect consumers in a fast-changing technological landscape.

- **Recommendation 1.1 Productivity growth from AI will be built on existing legal foundations. Gap analyses of current rules need to be expanded and completed:** A proportionate response to AI includes an EDR scheme for digital platforms, as recommended by the ACCC. By offering fair and reasonable resolutions, an EDR scheme can effectively fill regulatory gaps and enhance trust within the sector, ultimately contributing to its overall improvement and integrity.
- **Recommendation 1.2 AI-specific regulation should be of last resort:** EDR schemes can consider a range of factors in reaching fair and reasonable outcomes for complaints, not just the law. EDR schemes can also uplift their respective sectors and address consumer harms by applying a fair and reasonable criteria to complaints, working with members on systemic issues, and providing increased sector transparency through data and reporting.
- **Recommendation 2.1 Establish lower-cost and more flexible regulatory pathways to expand basic data access for individuals and businesses:** An EDR scheme for digital platforms will support increased consumer trust in data sharing and access. Currently, consumers in other sectors (including telco, banking, finance and energy) can take complaints about their data to respective industry Ombudsman schemes.

Below, we provide further details regarding the potential effects of an EDR scheme on productivity in the digital space.

The TIO broadly supports the Productivity Commission's view that that gap analysis of current rules needs to be expanded and completed

The TIO broadly supports the Productivity Commission's recommendation for regulatory responses to be grounded in existing frameworks, with AI-specific measures incorporated where necessary and appropriate. Dedicated AI regulations may risk early obsolescence by taking a narrow approach and may fail to allow for flexibility and adaptation as technology and its uses evolve.

The ACCC's 5-year inquiry into digital platforms highlighted the need for appropriate regulation and dispute resolution to address market power imbalances and to support trust and confidence in the digital economy. In particular, the ACCC found that evolving digital markets and emerging technologies (like generative AI) need continued scrutiny for potential harms. The ACCC's broad categorisation of digital platforms allows for regulatory measures equipped to cover a range of services, business models, and consumer benefits, while presenting opportunities for a more consumer-centric approach to navigating digital platforms and online safety.

⁴ TIO (2023) [Submission to the Treasury: Consultation on ACCC's regulatory reform recommendations](#)

Technological developments and consumer use have outpaced legislation and regulation. While the potential benefits for users, businesses and overall productivity are high, the risks of inadequate consumer protections, and consequent social and economic costs, are increasingly apparent. Account lockouts across Facebook and Instagram have impacted social media users, many of whom are small businesses, with media attention being one of few avenues to reinstate account access and business operations.⁵ Meta's community standards processes appear to incorporate AI to detect and suspend accounts, but their internal appeals process can make it difficult for consumers to speak to a person about a complaint.⁶ This highlights the absence of a strong appeals process, and the potential benefits of a robust EDR scheme to safeguard digital platforms consumers.

External dispute resolution would mitigate data and technology risks identified in the report

We agree with the Productivity Commission that for Australians to maximise the benefits of secure data access and digital technology, Government action is needed to manage and mitigate the downsides and risks.

The report identifies that the benefits of data access and use can only be realised if they are underpinned by trust that data is being handled safely and securely. The ACCC's Digital Platform Services Inquiry also found that trust and confidence underpin effective, well-functioning markets.⁷ An EDR scheme would play a vital role in uplifting trust and confidence in the digital economy. Such a scheme would provide an efficient and effective way to provide individual redress for consumers, as well as lifting the standard of the industry through working with digital platforms on systemic issues causing consumer harm.

In sectors where an effective EDR scheme is established, it has proven instrumental in identifying patterns of harm, informing policy, and driving accountability. Not only do EDR schemes resolve individual complaints, but they provide regulators and government with critical insights into consumer experiences and emerging issues, enabling timely and targeted interventions.

Systemic investigations can also facilitate increased compliance and fairer outcomes for industry without resorting to regulatory action, providing more cost effective and efficient access to justice for Australian consumers. For example, in 2025 new obligations on telcos commenced to support consumers experiencing domestic, family and sexual violence. Prior to those obligations commencing, the TIO used its systemic function to work with a number of telcos on improving their practices to better support victim survivors, in the absence of regulatory obligations. These investigations helped the TIO provide insights to regulators and government on regulatory gaps to be addressed by stronger regulation in this area.

The TIO has consistently supported the establishment of a Digital Platform Ombudsman, and, noting the similarities between telecommunications and digital platforms, have argued that we are best placed to take this role. Leveraging the TIO's 32 years of experience in EDR to provide consumers with an experienced, familiar and reliable avenue for resolving complaints is the most effective option for restoring trust and confidence in the digital economy and could support consumers to fully realise the productivity benefits of data and digital technology. We

⁵ ABC News (2025) Small businesses struggle after wrongful Facebook, Instagram suspensions

⁶ Ibid.

⁷ ACCC (2025) [Digital platform services inquiry. Final report](#)

recommend the Productivity Commission considers the benefits of scaling up the existing telecommunications ombudsman scheme to address a clear policy gap in the digital technology landscape, and its potential benefits for consumers, productivity, and trust in the sector.

Thank you for considering the TIO's submission, and I look forward to the outcome of the Productivity Commission's inquiry.

Kind regards

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Telecommunications Industry Ombudsman