

TIO Submission to the Senate Environment and Communications Legislation Committee Inquiry into the *Telecommunications Legislation Amendment (Competition and Consumer) Bill 2017* and *Telecommunications (Regional Broadband Scheme) Charge Bill 2017*

1. TIO's current complaints handling jurisdiction

The TIO handles residential and small business consumer complaints made against a carriage service provider.

The TIO also considers land access objections and property damage disputes against carriers¹.

TIO's current jurisdiction does not permit the handling of 'commercial' disputes between two industry participants in the telecommunications supply chain.

This means the TIO does not handle disputes between carriage service providers and carriers (which may also be a Statutory Infrastructure Provider (**SIP**) once the SIP regime commences).

The Telecommunications Industry Ombudsman (**TIO**) handles residential and small business consumer complaints made against a carriage service provider.

The TIO also considers land access objections and property damage disputes against carriers².

The TIO is the single Ombudsman scheme for the Australian telecommunications industry. Our mandate is set out in Part 6, *Telecommunications (Customer Protection and Service Standards) Act 1999* and supported by certain provisions of the *Telecommunications Act 1997*.

Our jurisdiction and complaints handling procedures are set out in our Company Constitution and Terms of Reference³.

The TIO typically handles complaints from a consumer about a carriage service provider that may involve failure to connect or supply a telecommunications service (including fault rectification issues) to the consumer's premise.

TIO's current jurisdiction does not permit the handling of 'commercial' disputes between two industry participants in the telecommunications supply chain⁴.

This means the TIO does not handle disputes between carriage service providers and carriers (which may also be a Statutory Infrastructure Provider (**SIP**) once the SIP regime commences).

2. How the TIO will handle consumer complaints once the SIP regime commences

The TIO expects it will receive complaints from residential and small business consumers about non-provision of service or delays in connecting a consumer's premise once the SIP regime commences.

When considering these complaints, the TIO will assess the actions of the carriage service provider by taking into account:

- whether a carriage service provider complied with the proposed 'refusal notice' requirements⁵; and
- the reasons for not connecting the service.

¹ *Telecommunications Act 1997*, Schedule 3; *Telecommunications Code of Practice 1997*; *Telecommunications (Low-impact Facilities) Determination 1997*; *TIO Guidelines on the Installation and Maintenance of Low-Impact Facilities* (10 April 2015). See: https://www.tio.com.au/_data/assets/pdf_file/0008/168227/Guidelines-on-the-installation-and-maintenance-of-low-impact-facilities-APRIL-2015.pdf

² As above, note 1

³ See: <https://www.tio.com.au/about-us/terms-of-reference-and-company-constitution>

⁴ TIO Terms of Reference, clauses 2.2 and 2.3

⁵ *Telecommunications Act 1997*, clause 360P(12)

The TIO expects it will receive complaints from residential and small business consumers about non-provision of service or delays in connecting a consumer's premise once the SIP regime commences.

When considering these complaints, the TIO will assess the actions of the carriage service provider by taking into account:

- whether the carriage service provider complied with the proposed 'refusal notice' requirements⁶; and
- the reasons for not connecting the service.

The TIO notes a carriage service provider's obligation to give a copy of the refusal notice to the consumer within 5 business days, will only be applicable in circumstances when the carriage service provider actually receives the 'refusal notice' from the SIP.

When handling these complaints, consistent with our current processes, the TIO will register the complaint against the relevant carriage service provider with whom the consumer contracts for the provision of service. The TIO will also record the problem or issues described by the consumer when registering the complaint.

If there is no SIP obligation to connect and the carriage service provider has complied and given the 'refusal notice', but the consumer remains without service, this may be a matter for resolution between the carriage service provider and SIP as a 'commercial' dispute.

3. A future-proofed and technologically neutral SIP regime

The SIP obligation to supply sets a standard for voice capability that excludes satellite technology from having to provide voice communications⁷.

The TIO encourages the introduction of a SIP regime that is future-proofed and technologically neutral.

The SIP obligation to supply sets a standard for voice capability that excludes satellite technology from having to provide voice communications⁸.

This is notwithstanding carriers such as NBN Co Ltd, will be exempt from the SIP obligation to supply while regulated by the telecommunications access regime in Part XIC, *Competition and Consumer Act 2010*⁹.

Presently, satellite technology has voice capability and may be combined with other technologies, such as mobile, to provide a range of ways to deliver voice communication services to consumers, especially those in regional and remote Australia.

The introduction of a SIP supply obligation that introduces a lower standard for satellite than current capability may act as a disincentive for industry innovation. This would be contrary to the stated objectives of the *Telecommunications Act 1997* – to promote the long-term interests of consumers and supply diverse and innovative telecommunications services¹⁰.

The TIO encourages the introduction of a SIP regime that is future-proofed and technologically neutral.

⁶ As above, note 5

⁷ *Telecommunications Act 1997*, clause 360Q(1A) and (1B)

⁸ As above, note 7

⁹ *Telecommunications Act 1997*, clause 360Q(2)

¹⁰ *Telecommunications Act 1997*, s3