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QUESTION TIME BRIEF (QTB)
TELECOMMUNICATIONS INDUSTRY OMBUDSMAN (TIO)
ANNUAL REPORT

What is the Government doing to respond to the increasing number of complaints to the TIO about telecommunications services?

- I never want to diminish the experience of an individual or a business if it hasn't been all that it should be.
- But it is also important to put the Ombudsman's report in context.
- The Opposition, in a typically shrill response, point to a rise in nbn-related complaints of around 159 per cent.
- But as we learned earlier this week when comparisons were made between broadband services in Australia and Kenya, the Opposition are highly selective with their use of statistics.
- The TIO report shows the overall number of complaints concerning the nbn equate to about 1 per cent of the 2.4 million users that had connected by June 30.
- That's 27,000 complaints out of 2.4 million connected NBN users at June 30, 2017.
- The complaints linked to the NBN are increasing pretty much in line with the rollout of the NBN.
- A key category of nbn complaints was connection delays. There were 11,224 representing about 41 per cent of the total.
- This clearly demonstrates Australians want to connect to the NBN as quickly as possible, in spite of Labor's rhetoric that the sky is falling in.

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- As the TIO notes in its report, Australians are relying more heavily than ever on technology to stay connected, to be informed, and to do business.
- It is understandable that consumer expectations about the availability and reliability of phone, mobile and internet services is also increasing as this reliance grows.
- Almost half of all complaints were linked to customer handling, and more than 40 per cent were about billing issues.
- The absolute rise in complaints should be a wake-up call to the entire telco industry to work harder for their customers, particularly with the transition to the nbn now approaching its peak.
- Obviously the next step for all telco providers is to draw on the TIO's data to identify where to focus business improvement and their own consumer experience strategies.

If asked – To what extent has the rollout of the NBN impacted the number of complaints being received?

- As the number of consumers migrating to the NBN increases, so too will the number of reports of consumer problems.
- As the Prime Minister pointed out this morning, like television viewing, a bigger audience will equal more complaints
- The NBN is Australia's largest infrastructure project, delivering fast broadband to all homes and businesses across Australia by 2020.
- The rollout is on track and on budget with 35,000 households connecting to the network every week.
- The number of premises connected to the NBN rose from 1.1 million to 2.4 million (increase of 1.3 million premises) – a 121% increase in the period.

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- The number of premises able to connect to the NBN rose from 2.9 million to 5.7 million (increase of 2.8 million premises) – a 97% increase in the period.
- Just 1% of the 2.4 million users connected to the NBN raised a complaint with the TIO last year (27,000 complaints out of 2.4 million connected NBN users at 30 June 2017).
- However, the two main sources of complaints to the TIO in 2016-2017 were customer service and billing/payment issues which broadly are not related the rollout of the NBN.
- These are issues that all telecommunications service providers need to address.

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Contact Officer

Name: 47E
Title: Director, Codes and Standards
Landline: 47E
Mobile: 47E
Last updated: 18 October 2017

SES Contact Officer

Kathleen Silleri
Assistant Secretary, Consumer
Safeguards
03 9097 8305
47E

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47E

From: 47E
Sent: Thursday, 9 November 2017 9:27 AM
To: 47E
Subject: FW: Comparison of TIO Annual reports [SEC=UNCLASSIFIED]

UNCLASSIFIED

fyi

From: Silleri, Kathleen
Sent: Thursday, 9 November 2017 9:23 AM
To: 47E n@communications.gov.au>
Cc: Spaseski, Sylvia <Sylvia.Spaseski@communications.gov.au>; Williams, Nadine <Nadine.Williams@communications.gov.au>; 47E @communications.gov.au>
Subject: Comparison of TIO Annual reports [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi 47E

I understand you are interested in an analysis of the detail provided in TIO annual reports over the last few years. We have assessed the last four TIO Annual reports to consider if there has been a decrease in the level of detail published. Our high level view is that there isn't a marked change in the level of analysis or detail. The one area that has changed over the last two years is a decrease in the granularity of geographic information regarding the location of the service which is the subject of the complaint.

In regard to considering possible reform of the legislative arrangements around the TIO and broader complaint resolution and data capture issues, we are proposing to explore possible changes to the remit of the TIO as well as possible alternatives or complementary options within the Consumer Safeguards Review.

Annual Report Assessments

We have assessed the TIO annual reports which have been released over the past few years (going back to 2013). We do not detect a significant shift in focus over this period. While each report is presented slightly differently, the information has not changed substantially. The reports mostly provide the same/similar information in relation to the number and type of complaints received by the TIO over the 12-month periods.

The reports all provide the following basic information regarding complaints received:

- Number and type of complaints
- State/territory breakdown
- Residential/small business breakdown
- Top (most frequent) complaints
- Service provider breakdown
- Comparisons over previous periods

Points to Note

Description of complaints - As we have previously noted, it is apparent that the way the complaints are recorded has an impact on the annual assessment. For example, a complaint about 'connection' could mean a number of things (missed appointments, delays, poor workmanship, etc). Similarly, complaints about 'faults', 'privacy', 'contracts' etc could also all be due to various reasons.

As we have stated previously, it would be useful for the TIO to have more descriptive reporting of the complaints received, and if possible the underlying cause.

Geographic breakdown - In the past two annual reports, information has not been included about the region (metro/regional/remote) from where the complaints were received by the TIO. For example, previous reports (e.g. 2013-14, 2014-15) provide a state and territory breakdown and within that a breakdown of the remoteness area from where the complaints were initiated. This information could be useful in terms of assessing service delivery in regional areas.

NBN related - Also noticeable, is the increased focus (and space afforded in the reports) to complaints related to services delivered over the NBN. Again, as we have previously noted, the information is not particularly useful as it is not clear from the reports whether the cause of the is related to the network - and not a fault/issue associated with a particular service provider that happens to be using the NBN.

Happy to discuss or expand on any of the above.

Kath

<image001.png>

Kathleen Silleri

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<image002.gif> [@CommsAu](https://twitter.com/CommsAu)

arts.gov.au

<image002.gif> [@artsculturegov](https://twitter.com/artsculturegov)



Australian Government

Department of Communications and the Arts

FOR: Minister Fifield cc:	MB17-008008	Date of event: 16 November 2017
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EVENT/MEETING BRIEF

Event/Meeting Details

You are meeting with Ms Judi Jones, Ombudsman, and 47F, Board Chair, Telecommunications Industry Ombudsman (TIO), to discuss changes to the TIO's Terms of Reference and emerging challenges for dispute resolution in the telecommunications industry (including the NBN).

Event/Meeting title	Meeting with Judi Jones and 47F Telecommunications Industry Ombudsman (TIO)
Day & date of event	Thursday, 16 November 2017
Time of event	10:00am–10:30am
Street address	Minister's Suite M146, Parliament House

Organisation

The TIO Scheme is the main dispute resolution mechanism for small business and residential consumers in Australia with complaints about their telephone or internet service. It is established under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), however the TIO itself is independent of Government. The TIO's Terms of Reference (ToRs) set out the types of complaints the TIO handles, and how it handles them.

The TIO's income is generated solely from its members, who are charged a fee when complaints are received from their customers. At 30 June 2016, 1,599 service providers were registered as members of the TIO. In 2015-16, the TIO's revenue from its members was \$24.28 million (\$27.54 million in 2014-15). Information regarding membership and revenue for 2016-17 will be made available by the TIO following its Annual General Meeting on 14 November 2017.

Contact

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Approved by:

Nadine Williams
First Assistant Secretary /11/2017

Sensitivities

- The TIO holds the view that its key priority is to resolve complaints, not to report on them. It has restructured its staffing accordingly, and has wound back (or removed) many of its previous reporting functions.

Attendees

Name and Title	Organisation	Confirmed
Ms Judi Jones, Ombudsman	Telecommunications Industry Ombudsman (TIO)	Yes
Ms 47F Board Chair	Telecommunications Industry Ombudsman (TIO)	Yes

Neither of the attendees listed above appear on the Register of Lobbyists as at 13 November 2017.

Background

The TIO scheme

The TIO is an independent dispute resolution body for small business and residential consumers in Australia with complaints about their telephone or internet service. Established under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), the TIO is an industry-based ombudsman scheme and is independent of Government. The current Ombudsman, Ms Judi Jones, was appointed in December 2015.

The TIO's Company Constitution establishes the TIO as the company which corresponds to the one specified in the TCPSS Act, and enables the creation and amendment of an associated Terms of Reference (ToRs). These ToRs set out the types of complaints the TIO can handle, and how it handles them. The TIO Board may change the ToRs at any time, via a special resolution of the Board and following consultation with Australian Government Ministers responsible for communications and consumer affairs policy. While the TIO has a level of autonomy in how it conducts its business, there is a reserve power in the TCPSS Act whereby the Minister for Communications may, by legislative instrument, determine standards to which the TIO Scheme must comply. This reserve power has not been used to date. Further information on the TIO's authorising environment and governance is at **Attachment B**.

Issues

Recent changes to TIO's Terms of Reference

On 25 October 2017 the TIO announced changes to its ToRs designed to address the increasing complexity of the telecommunications supply chain arising from the rollout of the NBN. The changes strengthen the TIO's ability to request information from members (not just the member against whom a complaint has been made) when resolving complaints, and strengthen the obligation on all members in the supply chain to cooperate with TIO decisions. The changes are in line with recommendations made by the Parliamentary Joint Standing Committee on the NBN in September 2017. The Committee recommended that the TIO be 'empowered to compel any relevant parties to a complaint to meet together or otherwise cooperate in order to facilitate the resolution of that complaint within a set reasonable timeframe.' A TIO-published guidance note outlining the adopted changes and a 'marked-up' version of the TIO's updated ToRs are at **Attachment C**.

The Department supports the TIO's changes as these would improve communication and information flow in complex complaints where resolution requires the involvement of all relevant parties in the

supply chain. However, additional clarifications suggested by the Department in its submission (**Attachment D** refers) were not adopted by the TIO. The Department remains of the view that the TIO should provide guidance on the application of its:

- 1) fees when resolution of a complaint requires cooperation from multiple parties; and
- 2) rules in the context of transitional issues (for example, with respect to complaints that were initiated under the old framework but still which remain unresolved).

TIO Independent Review

Under the TCPSS Act, the TIO must cause an independent review of the operation of the TIO scheme to be conducted every five years. The first of these reviews commenced in May 2017, with public and industry consultations undertaken by the review consultants (cameron.ralph.khoury) between June and August. The review has been completed and provided to the TIO Board, but to date the report has not been released. We understand that the TIO intends to publish its response to the review's findings in tandem with releasing the report.

Public submissions to the review were mostly critical of the TIO, with several submissions asserting bias by the TIO towards either industry or consumers. Submissions also indicated a number of areas the TIO could focus on to improve its effectiveness, including: data collection and provision of more granular reporting; expansion of TIO's remit so that it can deal with complaints across the supply chain; enhancement of the TIO's oversight of its members' dispute resolution and complaint handling processes; more training for TIO staff, particularly in relation to knowledge of the telecommunications industry; and better engagement with industry, regulators and consumers. The Department's submission to the TIO review (**Attachment E** refers) highlighted the Government's focus on consumer experience issues, and the TIO's role therein, particularly in the context of transitioning to the NBN. The Department also noted that the TIO needs to adapt to respond quickly and effectively if it is to continue to be a contemporary consumer safeguard.

TIO's data collection and reporting

You previously met with the Ombudsman in December 2016 and again in April 2017. You also wrote to the Ombudsman on 28 March 2017 (**Attachment F** refers), highlighting issues arising from the TIO's complaints reporting in the context of the need to improve accountability of industry in resolving problems encountered by consumers.

The Department subsequently met with the TIO Board on these matters. Points of discussion centred on the importance of accurately identifying the root cause of the complaints received and the party in the supply chain (wholesale or retail) responsible for addressing it. s47G and 47C

The Department continues to work with the TIO, including impressing upon it the need for complaint classification to represent, as accurately as possible, the source and nature of the problem that is of concern to the complainant.

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Public reporting

In May 2017, the TIO amended its public reporting processes. It now produces two public reports each year – an annual report in October which highlights the work of the TIO for the 12-month period to 30 June, and a six-monthly update report each April which summarises the work of the TIO for the first six months of the financial year (July to December). The TIO also publishes a quarterly ‘*Complaints in Context*’ report, in consultation with Communications Alliance.

The TIO has advised that it intends to provide your Office with copies of its annual reports and six-monthly update reports, and associated embargoed media releases, at least 24 hours in advance of their release - however this has not always eventuated. The Department has previously requested the TIO provide more notice of the contents of its public reports and an opportunity to discuss the reports prior to their release. We continue to liaise with TIO staff to seek early advice of these reports’ contents.

TIO 2016-17 Annual Report

The TIO’s 2016-17 Annual Report was released on 18 October 2017 (provided to your Office on this date). While the report showed a significant increase in the number of complaints across all service types (internet, mobile and landline), considerable media attention focussed on complaints about the NBN. A total of 27,195 complaints were received about NBN-related services – an increase of 159 per cent on the previous 12-month period. Of these, 16,221 were complaints about faults and 11,224 were about connection delays (some were about both issues). However, the TIO’s report also showed that the proportion of NBN-related complaints to the number of activated NBN services remained at a similar level to the previous twelve months (around 1 per cent), despite the network more than doubling in size. The report also showed that in 2016-17, less than 1 per cent of premises connected to the NBN made a complaint to the TIO, with about half a per cent of connected premises lodging a service fault complaint.

As discussed above, the information in the TIO’s Annual Report about NBN services may be misleading in terms of gauging consumer experience in migrating to the NBN, as the report does not distinguish complaints about the NBN network from complaints about retail components (e.g. billing, speed, complaints handling, etc) of services running over the NBN.

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Attachments

Attachment A – Talking Points

Attachment B – s22

Attachment F – Your 28 March letter to the TIO – data collection and reporting

Attachment G – Your 1 November letter – TIO Board Chair extension

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Talking Points

Attachment A

- s22
- The Government appreciates the work of the TIO as the independent dispute resolution service for consumers experiencing issues with their phone or internet service.
- I support the TIO's recent changes to its Terms of Reference, which aim to improve resolution of complaints involving multiple service providers, particularly for services provided over the NBN.
- Improving the NBN customer experience is a priority for the Government. With around 40,000 customers connecting to the NBN every week over the next two years, there needs to be a continued focus on improving the process for customers as they transition to NBN services.
- The NBN customer experience is a shared responsibility. The actions of industry, government, regulators and consumer representative groups all play an important role in addressing NBN consumer experience issues.
- Data about telecommunications consumer complaints is a key metric that provides important input to enable Government, industry and regulators to gauge the health of the industry.

- Information that the TIO gathers through its dispute resolution function can help identify areas requiring increased focus, such as whether issues are individual, systemic, or attributable to a particular entity.
- As I have previously indicated to you, I have asked my Department to provide the TIO with whatever assistance is needed to help the improve the accountability of retailers and wholesalers.
- In this regard, a reporting format which identifies the party responsible for complaints to the TIO would greatly assist.
- To prepare for any attention arising from the release of the TIO's public reports, it would also be beneficial for my Department to have sufficient time to consider the content of these reports, prior to release.

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SENATOR THE HON MITCH FIFIELD
MINISTER FOR COMMUNICATIONS
MINISTER FOR THE ARTS
MANAGER OF GOVERNMENT BUSINESS IN THE SENATE

Ms Judi Jones
Telecommunications Industry Ombudsman
PO Box 276
Collins Street West VIC 8007

TIO complaints reporting and handling

Dear Ms Jones

Thank you again for our meeting in late 2016 and for the ongoing work between the Telecommunications Industry Ombudsman (TIO), my Department and NBN Co Ltd (nbn) in regards to the reporting of complaints made by consumers receiving a service over the National Broadband Network (the network).

During that meeting, we discussed the issues arising from the TIO's current complaints reporting method and the prospect of increasing the accountability of organisations that are ultimately responsible for any problems that consumers face (nbn or their retail service provider).

Since we last met, this issue has continued to be brought to my attention as a greater number of consumers are connected to the network. We are rapidly approaching the point where 2 million consumers have active connections to the network. The Government is focussed on ensuring that consumers continue to have access to both an effective individual dispute resolution service and precise information about the party responsible for resolving their complaint.

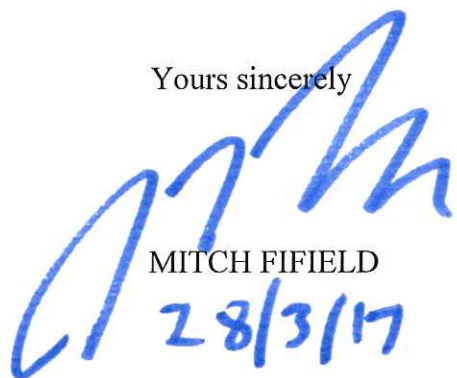
With this in mind, I have asked my Department to continue to work with the TIO and provide whatever assistance is required to:

- improve the accountability of retailers and wholesalers (including to put in place measures to ensure that consumer disputes are resolved and the relevant retailer or wholesaler is held accountable);
- further disaggregate complaints reporting, with the aim of establishing a reporting format which accurately reflects the party responsible for a complaint; and
- include the general technology type (such as fixed line, fixed wireless or satellite) when publishing complaint details, to enable consumers to differentiate between retailers (where, for example a retailer provides service over both fixed line and satellite).

The Government greatly appreciates the work of the TIO in providing an effective and independent dispute resolution service for telecommunications users and I look forward to ongoing engagement with you and with the organisation. I would appreciate the opportunity to meet with you over coming weeks to discuss the TIO's work in this important area.

The contact person in my Department for this issue is Pauline Sullivan who can be contacted at Pauline.Sullivan@communications.gov.au or on (02) 6271 1913.

Yours sincerely



MITCH FIFIELD
28/3/17



SENATOR THE HON MITCH FIFIELD
 MINISTER FOR COMMUNICATIONS
 MINISTER FOR THE ARTS
 MANAGER OF GOVERNMENT BUSINESS IN THE SENATE

Mr **47F**
 Company Secretary
 Telecommunications Industry Ombudsman
 PO Box 276
 COLLINS ST WEST VIC 8007

Proposed one year extension to Ms **47F
 appointment as TIO Board Independent Chair**

Dear **47F**

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The Australian Government appreciates the work of the TIO in providing an effective and independent dispute resolution service for telecommunications users. The TIO is a key source of information that can help Government and regulators gauge how industry is performing, and identify areas that require increased focus to help resolve problems. In her extended term as Independent Chair, I encourage **47F** to continue to lead the TIO Board's engagement with industry and Government stakeholders and to share with us its perspective of customer experience issues.

The contact person in my Department for this issue is Ms Kath Silleri, Assistant Secretary of Consumer Safeguards Branch. Ms Silleri can be contacted on (03) 9097 8305, or via email at kathleen.silleri@communications.gov.au

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Yours sincerely

MITCH FIFIELD

SB17-000262

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN (TIO) ANNUAL REPORT

LEAD/SUPPORT: Nadine Williams

KEY STATEMENT

The telecommunications industry continues to undergo significant transformation, which is impacting on industry structures and processes. The increase in complaints as reported in the Telecommunications Industry Ombudsman's 2016-17 Annual Report shows that more is required by Government and industry to improve customer experience.

KEY ISSUES

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SB17-000262

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NBN related complaints

The TIO's report shows a significant increase in the number of complaints relating to services provided over the National Broadband Network (NBN). In total, 27,195 NBN-related complaints were received, which is an increase of 159 per cent on the previous 12-month period. Of these, 16,221 were complaints about faults and 11,224 were about connection delays (some were about both issues).

However, the TIO's report shows that the proportion of complaints to the number of activated NBN services remained at a similar level to the previous twelve months (around 1 per cent), despite the network more than doubling in size. The report also shows that in 2016-17, less than 1 per cent of premises connected to the NBN during that year made a complaint to the TIO, with about half a per cent of total premises already connected to the NBN lodging a service fault complaint.

The rollout of the NBN is the biggest transformative project being undertaken in telecommunications in more than a generation. Inevitably, with a rollout of this size there will be some issues. The TIO's report shows more work needs to be done to improve the consumer experience. In particular there is a critical role for retailers in ensuring their customers receive the service they have paid for.

The statistics reported by the TIO do not distinguish between complaints that are the responsibility of NBN Co Ltd (nbn) and those that are the responsibility of the retail service provider. However, it is worth noting that most of the complaints recorded by the TIO appear to relate to retailers' internal systems - service provider billing and customer service appear to make up the majority of complaints overall.

Industry CEOs have committed to immediate action to tackle priority areas for their customers to support the NBN migration, including provision of consumer information, appointment, installation and disconnection processes, and handling of complaints (including escalations).

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SB17-000262

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TIO reform

- The TIO is taking a number of steps so it can respond to the significant structural changes which are occurring in the telecommunications industry arising from the rollout of the NBN, including:
 - An independent review of the TIO Scheme to examine the TIO's dispute resolution processes and whether changes would deliver more effective dispute resolution in a high volume complaint environment.
 - Adopting changes the TIO's Terms of Reference to improve communication and information flow in complex complaints, where resolution requires the involvement of all parties in the supply chain.

SB17-000262

BACKGROUND

TIO Annual Report

The TIO's 2016-17 Annual Report was released on 18 October 2017. The report covers the period of 1 July 2016 to 30 June 2017.

How the TIO gathers data/reporting methodology

The TIO has advised that it does not do root-cause analysis of complaints and suggests that overall the growing complexity of the telecommunications industry makes it harder to pinpoint causes. The TIO's reporting includes data on complaints classified by the TIO as being 'NBN-related', however in many cases these complaints are not caused by either NBN Co Ltd (nbn) or the NBN network. This is because the classification also includes complaints registered to telecommunications retail service providers (RSPs) in relation to retail services they provide over the wholesale network – for example, RSP billing and/or broadband speed issues. The TIO's current practice also does not separate issues encountered as part of migration, service quality and/or everyday billing. This has resulted in media interest following release TIO Reports and subsequent public confusion over the interpretation of the TIO data.

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***TIO Independent Review***

The first independent review of the TIO Scheme under section 133A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act) commenced in May 2017. Public and industry submissions to the independent review have indicated a number of areas the TIO could focus on to improve its effectiveness, including:

- Data collection and reporting – providing more granular reporting
- Jurisdiction – expansion of TIO remit so that it can deal with complaints across the supply chain i.e. wholesale and retail, as appropriate
- Effectiveness – enhance oversight of its members' dispute resolution and complaint handling processes
- Staff development – enhance training for TIO staff particularly in relation to knowledge of the telecommunications industry
- Stakeholder engagement – increased engagement with industry, regulators and consumer groups.

SB17-000262

Proposed changes to the TIO's Terms of Reference

On 25 October 2017 the TIO announced changes to its ToRs designed to address the increasing complexity of the telecommunications supply chain arising from the rollout of the NBN. The changes strengthen the TIO's ability to request information from members (not just the member against whom a complaint has been made) when resolving complaints, and strengthen the obligation on all members in the supply chain to cooperate with TIO decisions.

The changes are in line with recommendations made by the Parliamentary Joint Standing Committee on the NBN in September 2017. The Committee recommended that the TIO be 'empowered to compel any relevant parties to a complaint to meet together or otherwise cooperate in order to facilitate the resolution of that complaint within a set reasonable timeframe.'

ATTACHMENTS

- A. TIO 2016-17 Annual Report (18 October 2017)
- B. TIO Media release, Complaints from residential consumers and small businesses about landline phones, mobile phones and internet services increase (18 October 2017)
- C. nbn Media release, nbn responds to TIO Annual Report (18 October 2017)

Clearing Officer

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Date 20/11/2017

From: 47E
To: 47E
Subject: FW: TIO Review Report Talking points.docx [SEC=UNCLASSIFIED]
Date: Friday, 15 December 2017 10:17:31 AM
Attachments: [TIO Review Report Talking points.docx](#)
[image001.png](#)
[image002.gif](#)

From: Silleri, Kathleen
Sent: Friday, 15 December 2017 10:14 AM
To: 47E @communications.gov.au>
Cc: 47E @communications.gov.au>
Subject: FW: TIO Review Report Talking points.docx [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi 47E

Proposed TIO talking points for the Minister attached for your consideration. Please let me know if you need additional information.

Regards

Kath

Kathleen Silleri

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Department of Communications and the Arts
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Telecommunications Industry Ombudsman

Release of Independent Review – 15 December 2017

Key points

- In the last 12 months, the TIO has taken a number of steps to respond to the significant structural changes which are occurring in the telecommunications industry. These steps have included changes to the TIO's Terms of Reference to improve communication and information flow in complex complaints and to clarify the involvement of carriers and wholesalers in complaint resolution.
- The TIO has also undertaken its first independent review of the scheme. The review examined the TIO's dispute resolution processes and whether changes would deliver more effective dispute resolution in a high volume environment.
- The Review report has made 27 recommendations all of which are supported by the TIO and a number of which are already being actively implemented by the Ombudsman.
- The report found that there is a high level of support for the organisation from most stakeholders but there are areas for improvement around process, fee structure and engagement with the broader industry.
- The report also reflected the high degree of interest and reliance on the TIO's complaint data and the insights that data can give about the consumer experience.
- The Department recognises the important role of the TIO in the regulatory framework is committed to continuing to work collaboratively with the TIO on these issues.

Talking points (for Minister)

- The Telecommunications Industry Ombudsman plays a key role in addressing people's concerns with their phone and internet services.
- The independent review report reflects the high degree of interest and reliance on the TIO's role in resolving customer complaints.
- The report has identified a number of areas for improvement across the TIO's operations – including its complaints handling processes and stakeholder engagement.
- I note that the TIO has supported all of the recommendations put forward in the report and has already started to implement some.
- I look forward to seeing the outcomes of the activities which the TIO has committed to in response to the recommendations of the review.

Background

- The TIO is a free dispute resolution service for small business and residential customers who have a complaint about their telephone or internet service in Australia.
- The TIO was established in 1993 and is independent of industry, government and consumer organisations.
- Ms Judi Jones has been the Ombudsman since March 2016.
- The TIO publishes two reports: an annual report, and a six-monthly update.

- **Annual report** will be published at the end of October each year. This report will highlight the work of the office for the twelve month period to 30 June. The next annual report will be published in October 2017.
- **Six-monthly update** will be published at the end of April each year, summarising the work of the office for the first six months of the financial year (July to December). However, the publication of the initial 6-month update report is slightly delayed and will instead be published on 11 May 2017.

SB18-000032

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN (TIO)

LEAD/SUPPORT: Kath Silleri/Nadine Williams

KEY STATEMENT

The telecommunications industry continues to undergo significant transformation which is impacting industry structures and processes. The increase in complaints to the Telecommunications Industry Ombudsman shows that more is required by Government and industry to improve customer experience.

KEY ISSUES

TIO Annual Report

- The TIO's 2016-17 Annual Report (released on 18 October 2017) shows a significant increase in the number of complaints received about each service type (landline phone, mobile and internet), as compared to the previous 12 months.
- The TIO received a total of 158,016 complaints during the 12-month reporting period, which is a 41 per cent increase on the previous 12 months (111,949 in 2015-16).

NBN related complaints

- The TIO's 2016-17 Annual Report shows there were 27,195 complaints about services delivered over the NBN, up from 10,487 in the previous 12-month period (an increase of 159.3%).
- Of these, 16,221 were about faults (0.67 per cent of premises connected) and 11,224 were about connection delays (0.83 per cent of new activations). Some complaints were about both issues.
- The data reported by the TIO does not distinguish between complaints that are the responsibility of NBN Co Ltd (nbn) and those that are the responsibility of the retail service provider.
 - For example, the TIO reports on complaints it classifies as being 'NBN-related' however in many cases these complaints are not caused by either nbn or NBN infrastructure.
 - This is because the classification also includes complaints registered to retail service providers about the retail services they provide over the wholesale network, such as billing and broadband speed issues.
- The TIO clearly noted in its 2016-17 Annual Report that the growth in complaints across voice, mobile and internet service types is not just a result of the rollout of the NBN.
- The combination of changes in investment, industry structures, service offerings and new entrants in the market have all combined to result in an increase in complaints received by the TIO.

SB18-000032

TIO Independent Review

- The first statutory independent review of the TIO Scheme was conducted in 2017.
- The review included public and industry consultations and examined, among other things, the TIO's dispute resolution processes and whether changes would deliver more effective dispute resolution in a high volume complaint environment.
- The review's report, along with the TIO's responses to its recommendations, was released on 15 December 2017. There were 29 recommendations, all of which were supported by the TIO – including a number of which are already being implemented by the Ombudsman.
- The report found that there is a high level of support for the organisation from most stakeholders, however there are areas for improvement around process, fee structure and engagement with the broader industry.
- The report also noted the high degree of interest and reliance on the TIO's complaints data, and the insights that data can provide about the consumer experience.

TIO Terms of Reference expansion

- On 25 October 2017, the TIO announced changes to its Terms of Reference designed to address the increasing complexity of the telecommunications supply chain arising from the rollout of the NBN.
- The changes strengthen the TIO's ability to request information from members when resolving complaints (not just the member against whom a complaint has been made), and also strengthens the obligation on all members in the supply chain to cooperate with TIO decisions.
- The changes are in line with recommendations made by the Parliamentary Joint Standing Committee on the NBN in September 2017 that the TIO be 'empowered to compel any relevant parties to a complaint to meet together or otherwise cooperate in order to facilitate the resolution of that complaint within a set reasonable timeframe.'

SB18-000032

BACKGROUND

Telecommunications Industry Ombudsman

The TIO is a dispute resolution body for small business and residential consumers in Australia with complaints about telephone or internet services. Established in 1993 under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), the TIO is an industry-based ombudsman scheme which is independent of Government. The current Ombudsman, Ms Judi Jones, commenced in March 2016.

The TIO's income is generated solely from members who are charged a fee when complaints are received from their customers. The funding structure is intended to act as an incentive for service providers to resolve customer complaints directly and to keep complaints made to the TIO to a minimum. At 30 June 2017, a total of 1,518 service providers were registered as members of the TIO. The TIO is currently consulting with its larger members on a possible new funding model.

While the TIO has a level of autonomy in how it conducts its business, there is a reserve power in the TCPSS Act whereby the Minister for Communications may, by legislative instrument, determine standards to which the TIO Scheme must comply. This reserve power has not been used to date.

The TIO amended its public reporting processes in May 2017. It now produces two public reports each year – an annual report in October which highlights the work of the TIO for the 12-month period to 30 June, and a six-monthly update report in April which summarises the work of the TIO for the first six months of the financial year (July to December).

The TIO also provides complaints data to Communications Alliance to inform its quarterly '*Complaints in Context*' report. The latest report released on 25 January covers the October-December 2017 quarter. The report, which is limited to data from the five participating service providers (Telstra, Optus, Vodafone, Amaysim, Pivotel), indicates that 8.7 new complaints were lodged per 10,000 services in operation (less than one per cent) during the three-month reporting period. The report combines complaint numbers across all service types – landline, mobile and internet.

TIO Annual Report

s22

SB18-000032

s22

NBN related complaints

A total of 2.44 million premises were connected to the National Broadband Network (NBN) as at 30 June 2017, with 1.34 million new activations in the 2016-17 reporting period.

The TIO's annual reports for the past four years show the proportion of complaints about services delivered over the NBN as a percentage of premises connected to the NBN has remained between 0.95 per cent and 1.60 per cent (as illustrated in the table below).

Year	Complaints about services delivered over the NBN	Total NBN-activated premises	NBN-activated premises vs complaints (%)
2013-14	3,363	210,628	1.60%
2014-15	5,243	485,615	1.08%
2015-16	10,487	1,098,634	0.95%
2016-17	27,195	2,443,133	1.11%

ATTACHMENTS [note – will be uploaded to PDMS using attachments module]

- A. TIO Media Release - 2016-17 TIO Annual Report (18 October 2017)
- B. nbn Media Release – response to TIO Annual Report (18 October 2017)
- C. TIO Media Release – Independent Review of TIO Scheme (15 December 2017)
- D. Communications Alliance '*Complaints in Context*' report (25 January 2018)

Clearing Officer

Nadine Williams
FAS, Infrastructure and Consumer
Ph (02) 6271 1393

Contact Officer

Kath Silleri
AS, Consumer Safeguards
Ph (03) 9097 8305

47E

47E

Date XX/02/2018

From: [Sillieri, Kathleen](#)
To: 47E
Cc:
Subject: FW: Consumer Safeguards Review - Revised Terms of Reference [SEC=PROTECTED]
Date: Monday, 16 April 2018 12:04:26 PM
Attachments: [180417 Government announces telecommunications Consumer Safeguards Review.docx](#)
[image001.png](#)

PROTECTED

Hi 47

A couple of suggestions for your consideration.

1. Having now seen the embargoed TIO Report, the 'across all services' numbers have actually dropped (from 92K to 84K) – we have made adjustments to the attached media release, in track, for your review. We changed 'continues to increase' to 'are still high'.

s22

Regards

Kath



Kathleen Sillieri

Assistant Secretary / Consumer Safeguards Branch
 Department of Communications and the Arts
 P +61 3 9097 8305

47E

Kathleen.sillieri@communications.gov.au

Level 46, 360 Elizabeth Street, Melbourne, VIC, 3000

communications.gov.au / [@CommsAu](#)

arts.gov.au / [@artsculturegov](#)

I would like to acknowledge the traditional custodians of this land on which we meet, work and live. I recognise and respect their continuing connection to the land, waters and communities. I pay my respect to Elders past and present and to all Aboriginal and Torres Strait Islanders.

From: 47E

Sent: Monday, 16 April 2018 10:46 AM

To: 47E @communications.gov.au; Williams, Nadine

<Nadine.Williams@communications.gov.au>; Sillieri, Kathleen

<Kathleen.Sillieri@communications.gov.au>

Cc: 47E

@communications.gov.au; Windeyer, Richard

<Richard.Windeyer@communications.gov.au>

Subject: Consumer Safeguards Review - Revised Terms of Reference [SEC=PROTECTED]

PROTECTED

Nadine, Kath, 47

Please see attached my updated media release for tomorrow's planned announced (pending Minister's approval).

The Minister had asked me to include a page on existing protections, including our recently

announced measures, which *I've added as an appendix to the media release.

Appreciate any feedback today

47F

47E

Sent: Friday, 13 April 2018 5:16 PM

To: 47E @communications.gov.au>

Cc: DLO <DLO@communications.gov.au>; Williams, Nadine
<Nadine.Williams@communications.gov.au>; Silleri, Kathleen
<Kathleen.Silleri@communications.gov.au>

Subject: Minsub MS18-000435: Consumer Safeguards Review - Revised Terms of Reference
[SEC=PROTECTED]

PROTECTED

Good afternoon, 47

Please find attached Minsub **MS18-000435: Consumer Safeguards Review – Revised Terms of Reference**.

Also attached are the referenced attachments:

- Attachment **A – Revised Terms of Reference**
- Attachment **B – Draft media release**; and
- Attachment **C – Indicative timeline** for Review activities.

The original hardcopy will be delivered to the Minister's office in the next courier run.

Kind regards,

Nikki



47E

Director / Codes and Standards / Consumer Safeguards
Department of Communications and the Arts

47E

communications.gov.au

2 Phillip Law Street, Canberra ACT 2601

GPO Box 2154 Canberra, ACT 2601

communications.gov.au / @CommsAu

arts.gov.au / @artsculturegov

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47E

From: Silleri, Kathleen
Sent: Tuesday, 24 April 2018 3:52 PM
To: 47E
Subject: FW: Following up on chat [DLM=For-Official-Use-Only]

For Official Use Only

From: Silleri, Kathleen
Sent: Tuesday, 24 April 2018 2:11 PM
To: 47E
Cc: 47E
Subject: RE: Following up on chat [DLM=For-Official-Use-Only]

For Official Use Only

Hi 47E

Some points on the interactions with the TIO and the Consumer Safeguards Review below. Perhaps if you give me a call once you have had a read.

Kath

History of interactions

- The Minister, his office and his Department have had regular interactions with the TIO on matters related to its data collection, complaint categorisation and reporting for a number of years. Since late 2016, there have been multiple meetings, conversations and exchanges of correspondence on these matters.
- The Department made a formal submission to the TIO's independent review which reiterates many of the points made in direct communication with the TIO.

Nature of concerns

- My office and the Department has had ongoing concerns about the lack of consistency, robustness and transparency in the TIO's data collection and complaints reporting.
- The Department has also worked closely with the TIO to encourage it to improve its reporting methodology and to disaggregate its data in a way that produces a dataset that industry, consumers and government can sensibly rely on.
- We consider it critical that the TIO's reporting is viewed as credible and reliable, and that it reinforces the Ombudsman's role as the independent adjudicator on behalf of the consumer.

Consumer Safeguards Review

- The consumer safeguards review (the Review) is not a review of the TIO.
- With the NBN due to be completed in 2020, it is timely to examine the existing consumer safeguards and assess what will protections will be needed within the new environment. In this context the Review will develop the next generation of consumer safeguards.

- The initial element of the Review will consider consumer redress and complaint handling mechanisms across the industry. The 2nd phase will consider issues around reliability and the third phase will consider informed choice and fairness.
- All elements of the existing consumer protection framework will be considered in terms of whether they are needed within the new environment.



Kathleen Silleri

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Department of Communications and the Arts
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47F

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communications.gov.au / @CommsAu
arts.gov.au / @artsculturegov

I would like to acknowledge the traditional custodians of this land on which we meet, work and live. I recognise and respect their continuing connection to the land, waters and communities. I pay my respect to Elders past and present and to all Aboriginal and Torres Strait Islanders.

From: 47E

Sent: Tuesday, 24 April 2018 1:29 PM

To: Williams, Nadine <Nadine.Williams@communications.gov.au>; Silleri, Kathleen
<Kathleen.Silleri@communications.gov.au>

Subject: Following up on chat [DLM=For-Official-Use-Only]

For Official Use Only

Hi Nadine, Kath, I hope you are both well?

Could you please take a look at tweet below?



Michelle Rowland @MRowlandMP · Apr 17

The Turnbull Government has criticised the TIO over the way it reports complaint stats. This comes 6 months after the completion of the TIO review, to which the government, at one point, wasn't even sure whether it would bother to make a submission... #NBN



TIO Says NBN Complaints Are Up, Government Orders Review Of TIO

In a classic case of "shoot the messenger", the Minister for Communications and the Arts, Mitch Fifield has suggested that the way the TIO reports...

lifehacker.com.au

My understanding is the government, via the department, did make a submission (attached) and that the Minister has also made personal representations (about the government's concerns with TIO reporting) to the Ombudsman, in a letter to Judi Jones.

The Minister has asked us to brief him on exactly what we have done, in relation to serious attempts at urging the TIO to improve some of its practices, to benefit consumers.

Could you please ask the most appropriate person to help me with a response to the above tweet?

It doesn't have to be long. A couple of paras or dot points on the facts.

Ideally, I could deliver to the Minister by close COB today?

47E

Senior Adviser (Political)

Office of Senator the Hon Mitch Fifield

Minister for Communications | Minister for the Arts

Deputy Leader of the Government in the Senate | Liberal Senator for Victoria

MG.70 | Parliament House | CANBERRA ACT 2600

47E

www.mitchfifield.com | www.facebook.com/senatorfifield | www.twitter.com/senatorfifield

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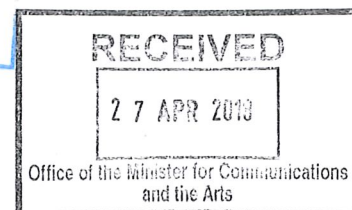


Australian Government

Department of Communications and the Arts



MS18-000478



SUBJECT: Letter to Telecommunications Industry Ombudsman (TIO) Chair – Concerns with TIO complaints reporting

TIMING: FOR ACTION BY 2 MAY 2018 – to build on the momentum of your recent Consumer Safeguards Review announcement.

KEY ISSUES:

1. Since late 2016, you have raised with the TIO ongoing concerns about the lack of consistency, robustness and transparency in the TIO's data collection and complaints reporting. The Department has also worked closely with the TIO to encourage it to improve its reporting methodology and to disaggregate its data in a way that produces a dataset that industry, consumers and government can sensibly rely on.
2. The latest TIO six-monthly update report on complaints, published on 17 April 2018, continues to be sub-optimal. In particular, the TIO's treatment of complaints about services delivered over the National Broadband Network (NBN) does not identify which party in the supply chain is responsible for the problems reported – that is, NBN Co Ltd (nbn) or retail service providers (RSPs).

The TIO's practice of reporting NBN-related complaints without fully contextualising them continues to give the impression that nbn is the responsible party, when the vast majority (around 95 per cent in this report) relate to the retail relationship between RSPs and their customers. This masks RSP performance and inhibits consumers' ability to make informed choices based on RSP responsiveness and service quality.

3. Further, the TIO's reporting methodology in this report **s47G an d47C** For example, the report headlines an increase of 203.9 per cent in complaints about services running over the NBN. This figure is not a comparison against the previous 6 months – in line with the reporting methodology in earlier reports – but rather against the same period last year. The fact that the rate of increase for NBN complaints is slowing (increasing by 16 per cent, compared to 159 per cent in the previous reporting period) and that complaints as a proportion of total activated premises has held relatively steady at less than 1 per cent – is not raised anywhere in the report.

Similarly, overall complaints (not just NBN complaints) are presented as an increase in complaints of 28.7 per cent – when in fact they have decreased by 8 per cent since the last 6-month period. The TIO claims this reporting methodology reflects 'seasonality' – without stating what type of 'seasonality' would be relevant to NBN activations and general telecommunications usage over a six-month period.

4. We consider it critical that the TIO's reporting is viewed as credible and reliable, and that it reinforces the Ombudsman's role as the independent adjudicator on behalf of the consumer. We recommend that you write to **s47F**, Chair TIO Board, reiterating your concerns and offering to meet with her to discuss further. A letter to **s47F** is attached.

For Official Use Only

5. In terms of a long term response, the first part of the Consumer Safeguards Review (MS18-000345 refers) will focus on complaints handling and consumer redress. As part of the Review we will work closely with the TIO to identify whether the current reporting methodology, organisational capability or governance model is contributing to the deficiencies in the way in which the TIO is collecting and presenting data, inhibiting the delivery of a level of transparency and accountability that consumers would general expect from an industry Ombudsman.

RECOMMENDATION/S:	
<p>That you:</p> <ol style="list-style-type: none"> Note the information in this brief; and Sign the letter to the TIO Independent Chair at <u>Tab 1</u>. 	<ol style="list-style-type: none"> Noted/Please discuss Signed/Not signed <p>MITCH FIFIELD /...../2018</p>
<p>Contact Nos: 47E (w) 02 6271 1939</p> <p>Date: 26 April 2018</p>	
<p>Name: Nadine Williams</p> <p>Division: FAS, Infrastructure and Consumer</p>	<p>Contact Officer: Kath Silleri</p> <p>Tel: (03) 9097 8305</p>
<p>Instructions for PSS: Nil</p>	<p>Distribution CC List: Mike Mrdak, Richard Windeyer, Richard Eccles, Nadine Williams, Pauline Sullivan, Sylvia Spaseski, Philip Mason, Andrew Madsen, Jason Ashurst, Tristan Kathage, 47F</p>

**SENATOR THE HON MITCH FIFIELD**

DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE
MINISTER FOR COMMUNICATIONS
MINISTER FOR THE ARTS

Ms 47F
Independent Chair
Telecommunications Industry Ombudsman Board
PO Box 276
COLLINS ST WEST VIC 8007

via email: pmfadvisor@gmail.com

Consumer safeguards framework and data analysis and reporting

Dear 47F

As you may be aware, I recently announced the commencement of a comprehensive Consumer Safeguards Review which will take a forward-looking approach to the telecommunications sector and the needs of consumers, particularly in the post-NBN world.

Among the matters under review, I have indicated there will be an investigation of consumer redress, complaints handling and data collection. Within this broad remit, there will be an opportunity to consider the most appropriate role for the TIO as both a complaints resolution body and publisher of key industry data.

With such a significant industry transformation underway it is vitally important that Government, industry, the TIO and the regulatory bodies work cooperatively in response to new technology and applications, changing consumer preferences, and the rollout of the national broadband network.

The TIO has a pivotal role in assisting consumers — particularly with the nbn migration underway — and through its data analysis which has historically shone a light on systemic industry problems as well as significant consumer complaints trends.

I am aware that your organisation has faced a series of financial and operational challenges over recent years as complaint rates have become more variable. This is due in part to the nbn rollout and the maturing of the mobile sector, and is evident in the reduced detailed and frequency of the TIO's published reports. However, with the telecommunications industry in such flux it is incumbent on the TIO to ensure its data collection and complaints reporting methods are as informative, robust and consistent as possible. The treatment of complaints about services delivered over the National Broadband Network (NBN) is a matter of particular concern given the network is increasing its service footprint at an unprecedented rate.

I appreciate that these are complex issues and that such a unique transition can make contextualising and reporting on complaints data more difficult. However, it is important that, in this environment, the TIO's reporting is robust, consistent and not open to misinterpretation.

s22

Regarding services delivered over the NBN, it remains my view that the TIO's reports should disaggregate complaints reporting data to more accurately reflect the party responsible for a complaint; include the general technology type (such as fixed line, fixed wireless or satellite); and allow consumers to differentiate between retailers. I note, in particular, that the TIO's reports do not provide a breakdown of complaints per retail service provider – or between the retailers and the wholesaler. Without this detail, the TIO's credibility in holding all industry participants appropriately to account is undermined.

The TIO's Six Month Update report published on 18 April 2018 contains several anomalies and inconsistencies including:

- The headline reporting of total complaints highlighting a 28.7% increase in complaints when compared to the six-month period from a year earlier — rather than from the first to the second half of 2017. However, the TIO has regularly compared successive six-month periods in previous reports, including in the 2016 Six Monthly Update of July – December 2017 (see page 7). Furthermore, on page 9 of the current report the full data set is graphically illustrated in six-month increments. It is worth noting there was a slight decrease of around 8 per cent in total complaints within calendar 2017. The Ombudsman's recent public statements about complaints being 'seasonal' is inconsistent with the TIO's past practice.
- A stated increase of 203.9 per cent in complaints about services running over the NBN. A comparison against the January to June 2017 period may have provided a more informative picture – that is, that complaints increased around 16 per cent. And to properly contextualise the complaints data some reporting of the change as compared to growth in services in operation would have provided even more useful information for consumers. The number of premises connection to the NBN rose by 39 per cent during the period.
- The TIO's practice of reporting complaints about services delivered over the NBN without detailing the service provider about whom the complaint was made. In this instance, nbn's records indicate that only 1,052 TIO complaints were sent to nbn to resolve – this is less than five per cent of the figure headlined by the TIO. The report provides no assistance in identifying where the remaining 95 per cent of complaints should be attributed, and therefore provides no way of determining where further industry or Government action may be required.
- A lack of clarity regarding complaints categories, especially in the reporting about services delivered over the NBN. The TIO has highlighted 14,055 complaints about 'service quality' noting that "establishing a connection" and 'service quality' include

the majority of NBN complaints". It is not clear whether 'service quality' is the same as 'poor service quality' or 'service delivery'. These are two options outlined in the explanatory graphic on page 6 of the report. Similarly, 'establishing a connection' is not precisely stated as a complaint category. Furthermore, there is no explanation of why the biggest single subcategory, 'provider response' — which accounted for 10,222 complaints — was not featured in the 'majority'.

My Department and my Office has engaged extensively with the TIO over more than 12 months on reporting deficiencies and confusing data analysis. It is disappointing that consumers, regulators, industry and government still do not have access to a TIO data set which provides a robust and transparent view of the performance of the telecommunications industry in meeting the needs of consumers.

I would ask that you raise these matters with your Board and the Ombudsman at your earliest convenience. I would also be open to meeting with you and Judi if you wish to discuss any of these issues in further detail.

Yours sincerely



Mitch Fifield

2/5/18

SB18-000096

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN (TIO)

LEAD/SUPPORT: NADINE WILLIAMS/KATH SILLERI

KEY STATEMENT

A combination of changes to industry structure, participants and service offerings has contributed towards an increase in consumer complaints about telecommunications retail services. The message is clear – telcos need to lift their game to improve customer experience.

KEY ISSUES

s22

NBN related complaints

- The TIO's six-month update reports that 22,827 complaints were recorded about services delivered over the National Broadband Network (NBN) from July to December 2017 - which the TIO notes is an increase of 203.9 per cent on the same six-month period in 2016.
- However, when compared against the previous six months, the rate of increase in NBN complaints is slowing. The 22,287 'NBN-related' complaints between July and December 2017 is an increase of around 16 per cent on the preceding six months (January to June 2017) in which the TIO recorded 19,683 complaints about services delivered over the NBN. This was over a period that saw a 39 per cent increase in NBN premises activated.

SB18-000096

- As a proportion of total NBN-activated premises, complaints have remained relatively steady at around 1.0 percent over the past four years (i.e. one complaint received for every 100 activated premises).
- Of the 22,827 complaints recorded by the TIO about services delivered over the NBN, the most common complaints were about provider response (10,222), poor service quality (9,006), connection/changing provider (8,929), no service (6,778) and charges and fees (4,348).
- When considering the data in the TIO's reports, it should be noted that the TIO does not distinguish between complaints attributed to the NBN (or the company) or the retail service provider delivering services over the NBN.
- In its response to the TIO's six-month update report, NBN Co noted that less than five per cent of the 22,827 'NBN-related' complaints (1,052) were sent to it to resolve.

Consumer Safeguards Review

- Regardless of who the responsible party is for consumer complaints about their mobile, fixed-line and internet services, the complaints figures remain too high – the current model for protecting consumers needs reform.
- The Terms of Reference for the Government's review of the existing telecommunications consumer safeguards (the Safeguards Review) were released on 17 April 2018. The review will develop the next generation of consumer safeguards for the post-2020 environment.
- The Consumer Safeguards Review will be informed by consultations with industry, regulators and consumers. The review, to be conducted by the Department of Communications and the Arts, will be completed by the end of 2018.
- (See ***SB18-000095*** for further information about the Consumer Safeguards Review).

BACKGROUND

Telecommunications Industry Ombudsman

The TIO is a dispute resolution body for small business and residential consumers in Australia with complaints about telephone or internet services. Established in 1993 under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), the TIO is an industry-based ombudsman scheme which is independent of Government. The current Ombudsman, Ms Judi Jones, commenced in March 2016.

The TIO's income is generated solely from members who are charged a fee when complaints are received from their customers. The funding structure is intended to act as an incentive for service providers to resolve customer complaints directly and to keep complaints made to the TIO to a minimum. Approximately 1,500 service providers are currently registered as members of the TIO. The TIO is currently consulting with its larger members on a possible new funding model.

While the TIO has a level of autonomy in how it conducts its business, there is a reserve power in the TCPSS Act whereby the Minister for Communications may, by legislative

SB18-000096

instrument, determine standards to which the TIO Scheme must comply. This reserve power has not been used to date.

The TIO amended its public reporting processes in May 2017. It now produces two public reports each year – an annual report in October which highlights the work of the TIO for the 12-month period to end-June, and a six-monthly update report in April/May which summarises the work of the TIO for the first six months of the financial year (July to December). The TIO also provides complaints data to Communications Alliance to inform its quarterly '*Complaints in Context*' report which is limited to data from five participating service providers (Telstra, Optus, Vodafone, Amaysim, Pivotel).

s22

NBN related complaints

A total of 3.386 million premises were connected to the NBN as at end 2017, with 942,804 new premises activated during the reporting period (July to December 2017).

SB18-000096

The TIO's recent six-month update shows that the proportion of 'NBN related' complaints as a percentage of premises connected to the NBN was 0.67 per cent between July and December 2017. The table below shows this percentage over the past four years.

Year	Complaints about services delivered over the NBN	Total NBN-activated premises	NBN-activated premises vs complaints (%)
2013-14	3,363	210,628	1.60%
2014-15	5,243	485,615	1.08%
2015-16	10,487	1,098,634	0.95%
2016-17	27,195	2,443,133	1.11%
<i>Jul-Dec 2017</i>	<i>22,827</i>	<i>3,385,937</i>	<i>0.67%</i>

TIO Independent Review

The first statutory independent review of the TIO Scheme was conducted last year. The review included public and industry consultations and examined, among other things, the TIO's dispute resolution processes and whether changes would deliver more effective dispute resolution in a high volume complaint environment.

The review's report, along with the TIO's responses to its recommendations, was released on 15 December 2017. There were 29 recommendations, all of which were supported by the TIO – including a number of which are already being implemented by the Ombudsman. The report found that there was a high level of support for the organisation from most stakeholders, however there were areas for improvement around process, fee structure and engagement with the broader industry.

The report also noted the high degree of interest and reliance on the TIO's complaints data, and the insights that data can provide about the consumer experience.

TIO Terms of Reference expansion

On 25 October 2017, the TIO announced changes to its Terms of Reference designed to address the increasing complexity of the telecommunications supply chain arising from the rollout of the NBN.

The changes strengthen the TIO's ability to request information from members when resolving complaints (not just the member against whom a complaint has been made), and also strengthens the obligation on all members in the supply chain to cooperate with TIO decisions.

The changes are in line with recommendations made by the Parliamentary Joint Standing Committee on the NBN in September 2017 that the TIO be 'empowered to compel any relevant parties to a complaint to meet together or otherwise cooperate in order to facilitate the resolution of that complaint within a set reasonable timeframe.'

SB18-000096

ATTACHMENTS

- A. TIO Six Month Update Report July to December 2017 (17 April 2018)
- B. Minister's Media Release (17 April 2018)
- C. nbn Media Release (17 April 2018)
- D. Transcript of Shadow Minister doorstep interview (17 April 2018)

Clearing Officer

Nadine Williams
FAS, Infrastructure and Consumer
Ph (02) 6271 1393

47E

Date 10/05/2018

Contact Officer

Kath Silleri
AS, Consumer Safeguards
Ph (03) 9097 8305

47E



Australian Government

Department of Communications and the Arts

FOR: Minister for Communications	MB18-000147	Date of event: Friday, 1 June 2018
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MEETING BRIEF

Meeting Details

You are meeting with Ms 47F Telecommunications Industry Ombudsman (TIO) Board Chair, and Ms Judi Jones, Ombudsman, to discuss the Consumer Safeguards Review and the TIO's data analysis and reporting.

Event/Meeting title	<u>Meeting with TIO Board Chair, 47F and Ombudsman, Ms Judi Jones.</u>
Day & date of event	Friday 1 June 2018
Time of event	10:30am
Street address	Minister's Suite MG70 Parliament House

Organisation

The TIO Scheme is the main dispute resolution mechanism for small business and residential consumers in Australia with complaints about their telephone or internet service. It is established under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), however the TIO itself is independent of Government. The TIO's Terms of Reference (ToRs) set out the types of complaints the TIO handles, and how it handles them.

Attendees

Name and Title	Organisation	Confirmed
Ms 47F Board Chair	Telecommunications Industry Ombudsman	Yes
Ms Judi Jones, Ombudsman	Telecommunications Industry Ombudsman	Yes
Ms 47F, Senior Advisor to the Ombudsman	Telecommunications Industry Ombudsman	Yes

Biographies are provided at **Attachment A**. None of the attendees listed above appear on the Register of Lobbyists as at 29 May 2018.

Contact

Name	Kath Silleri, Assistant Secretary
Organisation Name	Consumer Safeguards Branch
Phone No	(03) 9097 8305
Mobile No	47E
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Approved by:

Nadine Williams

First Assistant Secretary 31 / 05 / 2018

Sensitivities

The TIO Chair and Ombudsman will be sensitive to perceptions that Part A (Consumer redress and complaints handling) of the Consumer Safeguards Review is targeted at the TIO. This is not a review of the TIO but a review of the wider framework (of which the TIO is nevertheless a part).

Background

The first part of the Consumer Safeguards Review (the Review) will make recommendations on the level of consumer safeguards required so that telecommunications (voice and broadband) customers have access to effective consumer redress and complaint handling mechanisms, including:

- The most appropriate complaints handling, resolution and redress model; and
- Whole of system complaints data collection, analysis and reporting that provides transparency and holds industry accountable for its performance.

On 2 May 2018, you wrote to the TIO Board's Independent Chair, Ms 47F, re-iterating your concerns about the TIO's sub-optimal reporting of complaints data, and highlighting several areas of deficiency and confusing data analysis (**Attachment B** refers). You also requested that Ms 47F raise these issues with the TIO Board. Ms 47F provided a detailed response to your letter on 29 May (**Attachment C** refers), noting she and the Ombudsman would like to discuss these matters further with you. Talking points to assist your discussions are at **Attachment D**.

The Department (Nadine Williams, First Assistant Secretary, and Kathleen Silleri, Assistant Secretary) attended a strategy meeting of the TIO Board on Wednesday 30 May. Discussion was framed around: context to the overall Review, the three pillars around which a future model could be based, and a broad discussion around the role that collection, analysis and reporting of complaints data plays in the overall framework.

Mr Andrew Dyer has been engaged as Expert Lead Reviewer for Part A of the Review (MB18-000158 refers). Mr Dyer and the Department met with the Ombudsman on Monday 28 May.

Issues

On 17 April 2018, you released Terms of Reference for the Consumer Safeguards Review (the Review) (**Attachment E** refers). The Review is being conducted in three overlapping stages, involving the proposed release of three consultation papers (expected during June-July), targeted meetings with industry and key consumer bodies conducted on each paper, and a process inviting written submissions.

Current planning has the first discussion paper (Consumer Redress and Complaints Handling) proposed to be released in the second half of June.

The proposals being developed for consultation on this first part of the Review are being framed around the following three key pillars:

- 1) *Responsibility for complaints handling should sit primarily with industry. Complaints should be resolved quickly, efficiently, and as far as possible at the point of first contact between the customer and their provider.*

The majority of complaints would be expected to be dealt with at this level, without the need for external dispute resolution. In terms of regulatory controls, the ACMA's Complaints-Handling Standard, should do the majority of heavy lifting in driving consumer outcomes at this level.

- 2) *Where matters cannot be resolved between consumers and providers, there should be an independent dispute resolution body that can resolve these intractable disputes.*

The independent dispute resolution body should deal only with exceptional, highly complex complaints or ones that cannot be easily resolved. The dispute resolution body should also have powers to compel providers to take action and make remedy to consumers, if warranted.

- 3) *Data collection, analysis and reporting should be separated from the dispute resolution function.*

Within the regulatory ecosystem, collection and analysis of complaints data should be able to help pinpoint where consumer safeguards are (or are not) working. Responsibility for collection, analysis and reporting of complaints could be given to another body, which would be responsible for whole-of-system analysis of the data – collected from industry as well as the dispute resolution body – to determine trends, root cause of issues, and assessment of overall industry performance. This data could feed into decisions on interventions needed to improve consumer outcomes, and where those interventions would best be targeted. Separating out these data functions would also allow the dispute resolution body to focus on dealing with complaints.

Problems with the current framework

RSPs internal complaints handling processes

The TIO's six monthly update shows that 91 per cent of TIO complaints are resolved by referral to the service provider's higher level complaints team. This indicates that industry should be capable of internally resolving the majority of complaints, but there may be a lack of incentives for them to do so. There is currently limited transparency of the telco complaints handling processes, plans and systems.

TIO's structure and funding

As an industry-based ombudsman scheme, the TIO is funded solely by fees levied on the telcos that are its members. There is inherent tension in an industry-funded organisation that is also charged with driving better consumer outcomes, and the variability of complaint volumes can have a significant impact on the operations of the scheme. Although these funding arrangements are intended to act as an incentive for service providers to keep complaints made to the TIO to a minimum, it could also be argued that this may present a perverse incentive for the TIO not to fully drive better customer service performance by its industry members.

Weaknesses in TIO complaints data collection, analysis and reporting

Since late 2016, you have raised with the TIO ongoing concerns about the lack of consistency, robustness and transparency in the TIO's data collection and complaints reporting. The latest TIO six-monthly update report on complaints, published on 17 April 2018 (**Attachment F** refers), continues to be sub-optimal. These issues were highlighted in your 2 May letter to the TIO Chair. The Chair's response noted that the Board recognises these concerns, and agrees improvements are possible.

Attachments

Attachment A – Biographies – 47F Judi Jones and 47F

Attachment B – Your 2 May letter to Ms 47F

Attachment C – 47F 29 May response

Attachment D – Talking Points

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Judi Jones – Telecommunications Industry Ombudsman

Judi Jones commenced as Telecommunications Industry Ombudsman in March 2016.

Prior to this, Judi held the position of Electricity and Gas Complaints Commissioner in New Zealand for 14 years. As the inaugural Commissioner, Judi established a scheme that is now the largest in New Zealand and is fully funded by the electricity and gas industry.

Judi's work in New Zealand for organisations such as the Advertising Standards Complaints Board and Massey University's Dispute Resolution Centre has given her a wealth of experience in her field.

Her past appointments include being a member of the Security and Reliability Council for the electricity industry, Chair of the Advertising Standards Complaints Appeal Board, and Chair of Consumer NZ.

Judi holds a law degree and a Masters in Business Studies with Distinction in Dispute Resolution. She is currently the Chair of ANZOA, the peak body in Australia and New Zealand for industry-based, parliamentary and statutory ombudsman offices. Judi also has a long-standing involvement with ANZEWON, the Australia & New Zealand Energy and Water Ombudsman Network.

47F

Talking Points

Attachment D

- Thank you for your detailed response to the matters raised in my letter to you.
- I appreciate your and the Board's willingness to recognise these concerns. I also note your advice that the Board agrees that improvements to the TIO's reporting processes are possible.
- Your letter indicated that the Ombudsman is intending to hold a s47G to explore improvements which would enable better reporting on the underlying causes of complaints.
- Key outcomes which I would encourage the TIO to pursue in these consultations include data analysis and reporting that:
 - Disaggregates complaints reporting data to more accurately reflect the party responsible for a resolving complaint;
 - Includes the general technology type (such as fixed line, fixed wireless or satellite)
 - I note in this regard that you are in discussions with NBN Co about automating the collection of data in support of this; and
 - Contains a breakdown of complaints data in a way that allows consumers to differentiate between retailers, and informs their choice in selecting a preferred service provider

- As I have previously said, complaints data is an important diagnostic tool to help work out where and why things aren't working as they should be, and what needs to be done to fix them.
- This is not about 'naming and shaming'. It is about identifying how best to design and target interventions so that things don't go wrong in the first place. In other words, how do we prevent rather than resolve?
- I am very encouraged by this dialogue with the TIO, and look forward to it continuing as we progress the Consumer Safeguards Review.

Consumer Safeguards Review

- At the outset, let me assure you that this is not a review of the TIO. It is a review of the broader consumer redress and complaints handling framework, of which the TIO is nevertheless a part.
 - This means that the Review's considerations will unavoidably touch on issues of relevance – and importance – to the TIO.
- How we get to a better overall end-to-end model is a matter for consultation – and the TIO's views will be important in helping to shape this.
- However, what is non-negotiable is that new arrangements need to be effective, sustainable and very much consumer centred.
- I am very encouraged by the dialogue we have opened today, and look forward to it continuing as the Review progresses.

29 May 2018

Senator the Hon Mitch Fifield
Minister for Communications and the Arts
Parliament House
CANBERRA
ACT 2600

By email: senator.fifield@aph.gov.au

Dear Minister,

Thank you for your letter of 2 May 2018 and for agreeing to meet with me and the Ombudsman, Judi Jones on Friday 1 June 2018. Ahead of that meeting, I thought it helpful to provide a response to your letter.

The Telecommunications Industry Ombudsman Board (the Board) welcomes the review of consumer safeguards and will work with the Department

The Board welcomes the announcement of the Consumer Safeguards review, and looks forward to contributing its views and working with the Department to ensure the best system of regulation and complaint handling is available to Australian telecommunications consumers, post-2020.

The Board agrees that the review provides an opportunity to consider the role of the Telecommunications Industry Ombudsman. The Ombudsman and her team are already in dialogue with the Department and plan to make a detailed submission to the review. This follows the Ombudsman's submissions to a series of consultations on consumer protections by the Department, the Productivity Commission, the Australian Communications and Media Authority (ACMA), and Treasury.

The Telecommunications Industry Ombudsman is a critical independent service for Australian consumers

The Board would like to stress the importance and value to consumers of the independent, free dispute resolution service that the Telecommunications Industry Ombudsman provides. The Board believes this is particularly important at what you note is a time of significant industry transformation as the NBN is rolled out across the country.

Over 200,000 consumers use the Ombudsman's service each year. Consumers value the service because they get information from an independent source and get their complaints resolved.

The Ombudsman's role is primarily complaint resolution. The Ombudsman bridges the communication gap between the consumer and provider. In 90 per cent of cases the Ombudsman does not need to investigate to achieve a resolution.

The Board's primary objective is efficient and effective complaint handling in line with the Commonwealth Government's Benchmarks for Industry-Based Customer Dispute Resolution. The Board knows many consumers have difficulty in resolving their telecommunications complaints, and the Telecommunications Industry Ombudsman plays an important role in closing the communications gap between the consumer and their provider.

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* calls from mobile phones may incur charges

The Ombudsman's staff listen carefully to the consumer, analyse their issue and then provide information to the provider in such a way as to facilitate a resolution. In 90 per cent of cases, this initial step is sufficient and the Ombudsman does not need to investigate to resolve the complaint, as the consumer does not return to the Ombudsman's office to seek further assistance.

The Telecommunications Industry Ombudsman does not go behind these resolved complaints in order to apportion blame between the relevant retail service provider, nbn co, or a legacy wholesaler, an aggregator or any other party. Doing so can in fact be a barrier to resolving the complaint.

The Board recognises your concerns about reporting and agrees improvements are possible. Reporting is independent and is not influenced by telco representation on the Board

Your letter raises a number of concerns about the usefulness of the Ombudsman's reports, particularly the Six Monthly Update published on 18 April 2018. I want to assure you the Board has carefully considered your comments about reporting that you spelled out in your letter. Reflecting on them, the Board acknowledges the criticisms, particularly in the most recent Six Monthly Update. The Board understands your frustrations, particularly about data relating to services delivered over the NBN.

I have asked the Ombudsman to examine your recent concerns and she has concluded improvements to reporting are possible, particularly for readers trying to compare data published in the Annual Report with information in the Six Monthly Update.

Some of the matters you raise may reflect a difference of perception of the Ombudsman's half yearly and annual reporting. In 2016, the Ombudsman made the decision to cease quarterly reporting in order to better align with the NBN rollout. The Six Monthly Updates produced in 2017 and 2018 were intended to be snapshots of complaints, in contrast to the full data contained in the Annual Report.

We recognise you would like us to report on underlying causes 47G

I understand at the heart of your concerns is to have a greater understanding of which party in the complex supply chain for a telecommunications service is at fault, and how the data the Ombudsman collects, and indeed our process, can be expanded to better understand the practices that lead to consumer complaints.

To the extent possible, the data collected by the Ombudsman can and does inform the ACMA and other regulators who are the entities that provide Government and the community with a view of the performance of the telecommunications industry. It can also help providers improve the way they respond to consumer complaints and provide a dispute resolution service. The Ombudsman is committed to working with the ACMA, who has substantive investigative and enforcement powers required to effect overall change in the industry.

The Ombudsman is committed to fair, accurate and independent reporting, and is ready to consider changes to the data collected and reported on, where this would provide reliable information on which party in the supply chain caused the complaint, and where the increased data collection and reporting is consistent with the timely resolution of consumer complaints.

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, the Ombudsman now has agreement with nbn co to allow the Ombudsman to automate the collection of data about technology type for complaints about

services delivered over the national broadband network. In a recent meeting with the Ombudsman, Bill Morrow offered to work with the Ombudsman to build a portal to allow this automation.

Closing comments

I have included an appendix which outlines more detailed responses by the Ombudsman to the specific issues raised in your letter.

I look forward to discussing these matters further when we meet with you in Canberra this Friday, 1 June.

Yours sincerely

s47F

s47F

Chair

Telecommunications Industry Ombudsman

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Australian Government

Department of Communications and the Arts

FOR: Minister Fifield	MB18-000294	Date of event: Friday, 12 October 2018
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Meeting Details

You are meeting the Telecommunications Industry Ombudsman (TIO), Ms Judi Jones, to discuss the TIO's 2017-18 Annual Report which is expected to be released in mid-late October. Ms Jones may also enquire about the outcomes of Part A (complaints handling and consumer redress) of the Consumer Safeguards Review. Your previous meeting with Ms Jones and TIO Chair, Ms 47F was on 1 June 2018 (MB18-000147 refers).

Meeting Details	<u>Meeting with Telecommunications Industry Ombudsman, Judi Jones</u>
Day & date of event	Friday, 12 October 2018
Time of event	2:00 to 2:30 pm
Street address	Melbourne CPO

Organisation

The TIO Scheme is the main dispute resolution mechanism for small business and residential consumers in Australia with complaints about their telephone or internet service. It is established under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), however the TIO itself is independent of Government. The TIO's Terms of Reference set out the types of complaints the TIO handles, and how it handles them.

Attendees

Name and Title	Organisation	Confirmed
Ms Judi Jones, Ombudsman	TIO	Yes
Ms 47F, Senior Advisor to the Ombudsman	TIO	Yes
Mr 47F, Stakeholder Engagement	TIO	Yes

Biographies are provided at **Attachment A**. None of the attendees listed above appear on the Register of Lobbyists as at 4 October 2018.

Contact

Name	Kath Sillari, Assistant Secretary
Organisation Name	Consumer Safeguards Branch
Phone No	(03) 9097 8305
Mobile No	47E
Email	Kathleen.Sillari@communications.gov.au

Approved by:

Lachlann Paterson
FAS Infrastructure and Consumer a/g
5 / 10 / 2018

Sensitivities

The TIO will be sensitive to the potential for any outcomes from Part A (complaints handling and consumer redress) of the Consumer Safeguards Review that the TIO Board may perceive as impinging on its independence – such as those relating to changes to the TIO’s internal operations and potential changed ownership arrangements (**MS18-001117** refers). The Ombudsman has also indicated concern to the Department if, as advocated by the Australian Communications and Media Authority (ACMA) in its submission to Part A of the Review, the TIO scheme were to become subject to regulatory oversight by the ACMA.

Background

The TIO publishes complaints data twice per year – via its Annual Report each October and a six-monthly update report each April. There is also a quarterly ‘Complaints in Context’ report, which is based on TIO data but is published by Communications Alliance. A combination of changes to industry structures, particularly the rollout of the National Broadband Network (NBN), and service offerings had contributed to an increase in consumer complaints in recent reporting periods. However, early indications are that complaints have started to slow down during the first half (January to June) of 2018.

In May 2018, following the release of the TIO’s most recent Six Month Update report in April, which covered the July to December 2017 period, you wrote to the TIO Independent Chair, Ms **47F** drawing to her attention the then recently announced Consumer Safeguards Review Terms of Reference and outlining your concerns with the TIO’s data analysis and reporting (**Attachment B**). On 29 May 2018, the TIO responded to your letter by welcoming the announcement of the Consumer Safeguards Review and recognising your concerns about reporting, including agreeing that improvements are possible (**Attachment C**).

At this meeting the Ombudsman intends to discuss with you the approach and content of the TIO’s 2017-18 Annual Report. We suggest the meeting would also provide an opportunity to follow-up on the actions the TIO has taken to address the issues you raised in May regarding its data analysis and reporting.

The Consumer Safeguards Review is considering the broader changes necessary to improve consumer safeguards framework, including in relation to complaints handling and consumer redress (Part A). The report on Part A outcomes has been provided to you separately (**MS18-001117** refers). The associated Ministerial Submission outlines a summary of stakeholder feedback for Part A, and an implementation strategy for the report’s recommendations. This includes a suggestion that you write to the TIO Chair to provide an advance embargoed copy of the public report, and requesting that the TIO examine and put in place arrangements to implement the recommendations that are within its remit within 12 months.

The Ombudsman most recently met with the Departmental Secretary, Mike Mrdak, on 14 September. Discussions at that meeting noted that, while there was significant public support for External Dispute Resolution (EDR) in the telecommunications sector to continue being provided by the TIO, submitters to the Part A consultations also acknowledged that improvements could be made in several areas of the TIO Scheme. The Review is therefore, at this stage, tending towards strengthening of the existing TIO Scheme rather than establishing a new EDR body at this time.

Issues

Data analysis and reporting

A key issue of concern you raised in your May 2018 letter to the TIO was that its analysis and reporting of complaints about services delivered over the NBN:

- was not disaggregated to more accurately reflect the party responsible for the complaint (retailer or wholesaler) and the technology type;
- was not appropriately contextualised – for example, the TIO reported increases in the numbers of complaints without a relative comparison to the growth of operating services; and
- used terms that were potentially confusing to members of the public – for example, lack of clarity about how complaints about ‘service quality’ related to (or if they were used interchangeably with) ‘poor service quality’ and/or ‘service delivery’.

In its 29 May response to you, the TIO indicated that complaints about services delivered over the NBN are usually registered against the retail service provider with whom the consumer has the relationship (since it is the consumer reporting the complaint), and noted that it is difficult for the TIO to obtain accurate information about the wholesaler. The TIO also advised that it has reached agreement with NBN Co to allow the Ombudsman to automate the collection of data about technology type for complaints about services delivered over the NBN, and that the TIO had made changes in the language used in its reporting to better distinguish the company (NBN Co) from services provided by retail service providers over the network (NBN). This may go some way to addressing concerns.

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At the Secretary’s 14 September meeting with the TIO, he stressed to the Ombudsman the importance of ensuring government is provided with early information on complaints trends, as well as the need for information to be properly contextualised in the TIO’s public releases given the limitations of the TIO’s data.

Complaints trends

In 2015-16, the TIO reported it received a total of 112,518¹ new complaints, increasing to 158,016 in 2016-17. Prior to this, the highest number of complaints received in recent years was in 2010-11 (197,682 complaints) and 2011-12 (193,702 complaints), which according to the TIO was associated with the problems with mobile phone services and networks at that time².

The TIO’s most recent Six Month Update report, published in April 2018 and covering the period July to December 2017, indicated a decline in complaints on the previous six month period (January to June 2017) – from 92,046 to 84,914.

The TIO’s 2017-18 Annual Report will provide the total number of complaints received from 1 July 2017 through to 30 June 2018. In remarks to the Australian Communications Consumer Action Network (ACCAN) national conference on 13 September 2018, the Ombudsman noted that monthly data collected by the TIO shows that complaints have slowed in the second part of 2017-18. However, we will not know whether the total number of complaints received in 2017-18 will be lower than the 158,016 received in 2016-17, until the TIO provides a copy of the report.

It is also likely that data categories in the 2017-18 Annual Report will differ from previous ones, because this report will cover the full 12-month period since 1 July 2017 when the TIO instituted its new complaints categories.

¹ Figures obtained from the TIO’s 2016-17 and 2015-16 Annual Reports: www.tio.com.au/publications/annual-reports

² Figures obtained from the TIO’s 2010-11 and 2011-12 Annual Reports: www.tio.com.au/publications/annual-reports

Consumer Safeguards Review – Part A: Complaints handling and consumer redress

The report on outcomes for Part A (complaints handling and consumer redress) of the Consumer Safeguards Review makes recommendations focused on four key areas: a strengthened External Dispute Resolution (EDR) scheme; clear, enforceable rules; an empowered and active regulator; and publicly reported data that drives improved industry performance (MS18-001117 refers).

Stakeholder feedback on Part A of the Review found near universal support from both consumers and industry (except from most smaller providers) for EDR in the telco sector to continue being provided by the TIO, but acknowledgement that operational improvements could be made. As a result, the Review has outlined a number of steps to reform and enhance the Scheme so that it delivers improved outcomes for consumers and industry.

These recommendations are focused on refining the TIO's processes for triaging of complaints, reforming organisational governance arrangements, improving stakeholder engagement, and strengthening the TIO's relationship with the ACMA. The report recommends that the TIO should examine and put in place arrangements to implement the recommendations that are within its remit to the extent possible within its existing scope of powers, and within 12 months of the release of the report. It also recommends that should you consider further action be required, consideration be given to issuing a determination under section 128 of the TCPSS Act on standards to which the TIO Scheme must comply.

The TIO has not been informed of the recommendations relating to Part A of the Review, other than high level indications of proposed strengthening of the TIO Scheme's governance arrangements rather than establishment of a new body at this time, and remains concerned about its future. The Department recommends you write to the TIO prior to publicly releasing the report on the outcomes of Part A to provide an embargoed advance copy of the Report and requesting the TIO implement relevant recommendations.

Attachments

- Attachment A – Biographies –Judi Jones, 47F
- Attachment B – Your 2 May letter to TIO Chair, 47F
- Attachment C - 47F 29 May response to you
- Attachment D – Suggested Talking Points

Judi Jones – Telecommunications Industry Ombudsman

Judi Jones commenced as Telecommunications Industry Ombudsman in March 2016.

Prior to this, Judi held the position of Electricity and Gas Complaints Commissioner in New Zealand for 14 years. As the inaugural Commissioner, Judi established a scheme that is now the largest in New Zealand and is fully funded by the electricity and gas industry.

Judi's work in New Zealand for organisations such as the Advertising Standards Complaints Board and Massey University's Dispute Resolution Centre has given her a wealth of experience in her field.

Her past appointments include being a member of the Security and Reliability Council for the electricity industry, Chair of the Advertising Standards Complaints Appeal Board, and Chair of Consumer NZ.

Judi holds a law degree and a Masters in Business Studies with Distinction in Dispute Resolution. She is currently the Chair of ANZOA, the peak body in Australia and New Zealand for industry-based, parliamentary and statutory ombudsman offices. Judi also has a long-standing involvement with ANZEWO, the Australia & New Zealand Energy and Water Ombudsman Network.

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Talking Points

Attachment D

- Thank you for this advance briefing on the TIO's 2017-18 Annual Report. There is always a great deal of interest in these reports, and it is important I am able to respond to questions that arise.
- I am interested to understand the latest complaints data and what it shows in terms of trends in consumer complaints.
- I understand the monthly data the TIO has been collecting shows a slowdown in complaints for the first half of this calendar year.
- Could you take us through the key findings in the report?

Reporting on NBN complaints

- I am sure you will recall our exchange of correspondence in May 2018 on the TIO's data analysis and reporting – particularly with regard to complaints about services running over the NBN.
- The TIO committed to making some changes to its reporting to better contextualise these complaints, delineate between NBN Co and retail service providers providing services over the NBN and to identify the NBN technology type.
- I am interested in whether these changes have been implemented and how this is reflected in the Annual Report.
- Is the TIO intending to proceed with the proposed workshop to consider the issue of collecting and reporting data on underlying causes of complaints?

Consumer Safeguards Review – Outcomes Part A

- Part A of the Consumer Safeguards Review examined the existing framework for handling consumer complaints to identify improvements to drive better outcomes for consumers.
- I am currently considering the report on the outcomes Part A.
- The report's recommendations were informed by the outcomes of the comprehensive consultations undertaken by Part A's Lead Reviewer, Mr Andrew Dyer.
- I understand that the TIO met with Mr Dyer a number of times and provided a written submission to the Review. Thank you for your thoughtful and considered input into this process.
- The stakeholder consultations for Part A highlighted robust differences in views between consumers and industry participants (and also among industry participants) on the need for change.
- However, there were some key areas where there was agreement – this includes strong support for the TIO to continue providing external dispute resolution for the telco sector.
- The consultations also identified a number of areas where the TIO's operational and governance arrangements could potentially be improved, and the Report's recommendations are focussed accordingly:
 - refining the TIO's processes for triaging of complaints
 - reforming organisational governance arrangements

- improving the TIO's stakeholder engagement and
- strengthening the TIO's relationship with the ACMA.
- I am currently considering the recommendations in the Part A report and expect to release it in the coming weeks. I expect to provide you an embargoed copy of the report prior to its public release.
- I appreciate the important work of the TIO as an independent dispute resolution service for telecommunications users.
- I would encourage you to work closely with ACMA and my Department on the outcomes of Part A, and going forward.

If raised – Regulatory oversight by ACMA

- There are clear benefits in having more direct involvement of the regulator in setting and overseeing parameters for a sector's complaints handling scheme – such as the approach used in the Australian Financial Complaints Authority (AFCA) model³
- Under this model, the scheme remains independent and funded by industry, but would operate under oversight of the regulator.
- This enables flexibility for the EDR body to implement operational improvements where needed, while providing a safety net for consumers in that the regulator could take action to ensure compliance with mandatory requirements for the Scheme.

³ AFCA is subject to regulatory oversight by the Australian Securities and Investments Commission (ASIC). Under these arrangements, ASIC has the power to: issue regulatory requirements that AFCA (being the operator of the AFCA Scheme) must comply with; approve material changes to the AFCA scheme by giving written notice to AFCA; and powers to direct AFCA to comply with legislative or regulatory requirements that apply in relation to the AFCA scheme.

SB18-000170

TELECOMMUNICATIONS INDUSTRY OMBUDSMAN (TIO) COMPLAINTS

LEAD/SUPPORT: Nadine Williams/Kath Silleri

KEY STATEMENT: A combination of changes to industry structures and service offerings has contributed to an increase in consumer complaints about telecommunications services. The Government, regulators and industry are addressing issues causing consumer dissatisfaction, including via the Consumer Safeguards Review and the NBN consumer experience measures – early indications are that complaints may be slowing, but they are still too high.

KEY ISSUES

- The most recent data is in the TIO's 2017-18 Annual Report released on 17 October. Complaint numbers rose by 6.2 per cent (from 158,016 to 167,831) on the previous year, but have started trending downwards (dropping 17.8 percent in April-June 2018).
- The Report notes the recent downward trend in complaint numbers correlates with a number of actions from government, industry, regulators and the TIO, including: the ACCC's work on speed claims, the ACMA's Complaints-Handling Standard, the Minister's CEO forum, and industry's increased focus on preventing and resolving complaints.
- Top complaints issues in the 2017-18 TIO Annual Report related to:
 - *Customer Service* – No or delayed action (34.1 per cent)
 - *Payment for a service* – Service and equipment fees (25.5 per cent)
 - *Establishing a service* – Delays in establishing service (12.8 per cent) and
 - *Service delivery* – No service i.e. connected but then failed (12.5 per cent); Intermittent service/drop outs (10.1 per cent); and Slow data speed (8.4 per cent)(Attachment A contains a more detailed summary of the Report's complaints data.)
- The majority of complaints were not related to the performance of the NBN or NBN Co. Of the (41,597) complaints made to the TIO about services delivered over the network, only 5 per cent (2,119) were sent to NBN Co to resolve.
- Service delivery can be affected by several factors that often have nothing to do with the quality of the underlying NBN infrastructure. The TIO report does not break down the factors which contributed to the reported service delivery complaints which could include, for example:
 - the customer's in-home set-up, including end user equipment, wiring, and even the location of the wi-fi router within the home
 - how the RSP designs its service to run on NBN Co's infrastructure
 - how much capacity the RSP buys from NBN Co
 - congestion on the internet site visited; and
 - (for video streaming services) the content management system that supports the stream and how it is compressed for consumer viewing.

SB18-000170

Consumer Safeguards Review

- Complaints about telecommunications services are still too high and there is still more to do to address the issues causing consumer dissatisfaction with telco services.
- The Terms of Reference for the Government's review of telecommunications consumer safeguards (the Consumer Safeguards Review) were released on 17 April 2018. The review is being conducted by the Department of Communications and the Arts.
- Submissions for Part A of the Review, Consumer redress and complaints handling, were accepted to 16 August 2018. The report of Part A **is currently under consideration by the Government** / OR / **was released on [DATE]**
- (See SB18-000169 for further information about the Consumer Safeguards Review).

BACKGROUND

Telecommunications Industry Ombudsman

The TIO is a dispute resolution body for small business and residential consumers in Australia with complaints about telephone or internet services. Established in 1993 under the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (TCPSS Act), the TIO is an industry-based ombudsman scheme which is independent of Government. The current Ombudsman, Ms Judi Jones, commenced in March 2016.

The TIO's income is generated solely from members who, since a new funding model commenced on 2 July 2018, are charged a membership fee (minimum of \$400) based on the number of complaints the member received in the preceding calendar year, plus the previous case fees that vary depending on the stage at which a complaint is closed. Approximately 1,500 service providers are registered as members of the TIO.

The TIO instituted a new complaints handling process on 2 July 2018. It features a fast track process for straightforward complaints, renewed focus on conciliation, including conference calls and shuttle negotiation (back and forth between the parties), and the ability to move straight to investigation where appropriate.

While the TIO has a level of autonomy in how it conducts its business, under the TCPSS Act Minister for Communications may, by legislative instrument, determine standards to which the TIO Scheme must comply. This power has not been used to date.

The TIO amended its public reporting processes in May 2017. It now produces two public reports each year – an annual report in October, and a six-monthly update report in May. The TIO also provides complaints data to Communications Alliance to inform its quarterly '*Complaints in Context*' report which is currently limited to data from five participating service providers (Telstra, Optus, Vodafone, Amaysim, Pivotal).

The TIO has also committed to publishing Systemic Insight papers that raise awareness of industry-wide issues and identify measures that providers can take to reduce consumer detriment. The first paper, *Loss of telephone numbers during migration to the NBN*, published on 18 July 2018, covered the six months from July-December 2017 during which the TIO received 661 complaints about telephone number loss during the NBN migration process.

SB18-000170

ATTACHMENTS

- A. Summary of TIO Annual Report data
- B. TIO 2017-18 Annual Report
- C. TIO media release on Annual Report
- D. TIO Systemic Insight: Loss of telephone numbers during migration to the NBN (18 July 2018)

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SB18-000170

ATTACHMENT A**TIO 2017-18 ANNUAL REPORT
Summary of data****Total complaint numbers**

- Total complaint numbers increased by 6.2 per cent from the previous year (167,831 in 2017-18 and 158,016 in 2016-17).
- However, there was a significant improvement in complaint numbers in the later part of the year with a 17.8 per cent decline in complaints between quarter 3 (January to March 2018) and quarter 4 (April to June 2018).

The top complaint issues are unrelated to NBN infrastructure

- The main issues did not relate to the rollout of the NBN or the NBN network's performance:
 - customer service issues (39 per cent) – including dissatisfaction with 'Response from phone or internet provider'
 - payment issues (36 per cent) – such as billing, service and equipment charges, and contract termination fees.

Complaints about services delivered over the NBN

- Just 1 per cent of the more than 4 million premises connected to the NBN raised a complaint with the TIO in 2017-18 (41,597 complaints).
- Over this same period, the number of services activated over the NBN rose from around 2.4 million to just over 4 million (an increase of 1.6 million premises).
- The number of complaints about services delivered over the NBN as a proportion of total NBN-activated premises has remained at around 1 per cent for the past four years, despite the network almost doubling in size each consecutive year:

Year	Complaints about services delivered over the NBN	Total NBN-activated premises	NBN-activated premises vs complaints (%)
2013-14	3,982	210,628	1.89%
2014-15	6,715	485,615	1.38 %
2015-16	13,406	1,098,634	1.22%
2016-17	27,195	2,443,133	1.11%
2017-18	41,597 ¹	4,030,582	1.03%

- There were 27,008 complaints about service quality issues over the reporting period:
 - This is around half a per cent (0.67 per cent) of the total 4 million-plus services active on the NBN.
 - The number of complaints decreased by 7 per cent over the reporting period: from 14,000 in the first half to December 2017, to 13,008 in the second half to July 2018.
- There were 14,589 complaints about connection or changing providers over the reporting period:
 - This is around 1 per cent (0.92 per cent) of the 1,592,737 premises that were activated on the NBN during this period.
 - The number of complaints about these issues decreased by 33 per cent in the reporting period: from 8,711 in the first half to December 2017, to 5,878 in the second half to July 2018.

¹ Total of complaints that had a connection, changing provider, or service quality issue –TIO 2017-18 Annual Report p.38.