



8 September 2017

Telecommunications Industry Ombudsman
PO Box 276
Collins Street West Vic 8007

StakeholderEngagement@tio.com.au

Dear Ms Jones,

CHANGES TO TIO TERMS OF REFERENCE

I write to provide Optus' comments on the '*Proposed changes to the Telecommunications Industry Ombudsman's [TIO] Terms of Reference*' consultation paper.

Optus has no in-principle objections to the proposed amendments to the TIO Scheme's Terms of Reference. I observe the proposed drafting does not confer any additional powers on the TIO but, in effect, adds clarity and further refines the use of existing powers.

Given the increasingly complex supply chains involved in delivering services to end users in the telecommunications industry, the proposed changes have the potential to make a positive contribution to efficiently resolving complaints.

However, there are a number of questions which should be satisfactorily addressed for the TIO's mediation to be effective across the relevant parties. Optus would like to see a more fully articulated multi-party process outlined, and for it to be subject to further consultation with TIO Members to ensure the practical arrangements of resolving complex complaints across parties are managed effectively and without unintended consequences.

It would be also be worthwhile for the TIO to consult in more depth about the type of information which may be shared between parties as part of the resolution process. I note the proposed draft Terms of Reference includes the explanation under clause 3.6 (p3):

"We can, at any time, tell the provider or any other TIO member to send us any information or documents they have that are relevant to the complaint. Such parties must give the information and documents to us.

Explanatory note: We may tell the provider or any other TIO member to send us information or documents if we consider that they may have information or documents relevant to the complaint. If we direct the provider or any other TIO member to provide information or documents, we will tell them how long they have to give us the information and documents. We will be reasonable in setting this deadline but it will not be more than 28 days.

If a provider or other TIO member has information or documents that are relevant to the complaint but which contain someone else's confidential information, we still want to see the information and documents. Such party does not have to give us the information and documents if they cannot get permission from the other person, but they must make reasonable efforts to get permission."

This explanation does not outline what should be considered confidential information, and this may vary when considering complaints across multiple parties. In particular, I would be concerned if

Optus' proprietary information was released to another TIO Member, which is potentially a competitor, during the course of the TIO conducting its investigations.

Similarly, Optus suggests that any process updates must maintain the TIO's record of ensuring appropriate steps to protect a customer's privacy, particularly where Optus has provided a customer's personal details to the TIO during the course of resolving a complaint. Optus requests that the TIO be the party responsible for obtaining the end user's permission to contact another TIO member before engaging that member.

Optus also seeks the TIO's assurance that, where Optus has been approached as a wholesale provider, it could provide details about the relevant transactions from our Optus wholesale division on the understanding that the request was made with the end user and retail service provider's permission, and that Optus wholesale was therefore not unwittingly put in the position of potentially breaching another party's privacy.

Further clarification is also sought on how the TIO will reflect complex complaints involving multiple parties in its statistics. I understand the TIO in the first instance intends to keep the attribution of the complaint and associated fees directed to the retail service provider. I also understand from comments provided to Communications Alliance that any additional fees or changes in fee structure may be considered at a later date in the context of your other fee considerations, but that no immediate changes are expected.

I note Optus is a voluntary participant in the industry Complaints in Context reports. I also note that TIO statistics are widely viewed by the regulator and media interests as a key indicator of issues being experienced by consumers with the telecommunications providers. Care must therefore continue to be taken to accurately reflect TIO member activity and which parties and issues are the contributors of complaint drivers.

Lastly, I anticipate that these changes may have an impact on Optus' customer care systems and complaint handling processes; and potentially impact the records Optus' wholesale division is expected to retain. It would be prudent for the TIO to allow a sufficient notice period for TIO members to prepare for any IT development that may be considered necessary to support these changes.

Optus looks forward to further engagement with the TIO in developing the processes to assist in resolving future complex complaints.

Please contact Xanthe Corbett-Jones (02) 8082 9017, xanthe.corbett-jones@optus.com.au if you require further information on the comments provided above.

Yours sincerely,



Gary Smith
Head of Regulatory Compliance