



Spark^{nz}

Industry Dispute Resolution Scheme

Spark Submission

Public Version

Commerce Commission

18 December 2020

Summary

1. Telecommunications Dispute Resolution was established as an independent body for the prompt, unbiased resolution of disputes. Telecommunications companies can become members, and their customers can use the service. Spark has been a member of the Telecommunications Dispute Resolution Scheme (TDRS) since it was established in 2007. We consider the TDR disputes scheme generally works well and disputes are resolved quickly and independently.
2. The TCF has submitted on issues of governance, fees, and scheme rules. We support the TCF submission.

We support a well-functioning complaints process

3. The objective of any complaint regime is ultimately to improve service quality. A complaints regime should help customers get quick resolutions to problems as they occur and provide a means for the complaint to be escalated where disagreement remains.
4. Customers should initially take their issue to their retail provider as they are in the best position to understand the issue and, where necessary, address the customer's concern. This is an important first step, allowing the provider to put things right, or alternatively, explain to the customer why they disagree with their issue.
5. It is also important that customers have the opportunity to escalate their complaint if they cannot agree a position with their provider within a reasonable amount of time (or reach deadlock). The disputes scheme provides an independent body to review the customer's complaint and help them reach a resolution.
6. This independent oversight provides a fair outcome for customers and encourages providers to reach a reasonable position when they receive a complaint initially, because they know their actions may later be scrutinised by the TDRS.

We support mandatory, universal membership of the TDRS

7. It is important that all providers are members of the TDRS so that customers of all retailers have the opportunity to raise a dispute. This should be a basic 'right' of telecommunications consumers.
8. Mandatory, universal membership would mean that all providers would be subject to the same incentives to improve customer service and would be held to the same external standards. It would also create a more level playing field for providers and customers.
9. Having mandatory, universal membership of TDRS would also help with general awareness of the scheme and to simplify messaging that the TDRS is there for consumers whatever service they are on.
10. For the same reason, we favour there being a single industry disputes scheme if mandatory access to a dispute resolution scheme is required.

11. All members of the TDRS should be required to proportionally contribute to the common running costs of the scheme as well as paying per incident costs.

We support a single category of membership of the TDRS

12. We have seen numerous examples of customer concerns or complaints which have arisen due to a third party's services or acts, but the complaint has had to be brought to Spark as the customer's retail provider. This is because a customer can only raise a complaint with TDRS if it has a billing relationship with the provider. This creates unnecessary complexity for customers. It unfairly penalises retailers and does not result in the same incentives on wholesalers to improve their (or their contractor's) performance.

13. For example, a technician visiting a customer to install fibre may damage the customer's property (eg make a hole in the wall, accidentally damage the television etc), or do a poor job with the visual aspect of the installation. In this case the customer knows it was the technician at fault but must first complain to the RSP who then must work with the wholesale provider. Only then, after a period of time, can the customer take the complaint to the TDRS.

14. The TDRS today has a concept of a 'wholesale' member who can be involved in a dispute if the TDRS considers them a party to the issue. However, the process is complex and cumbersome. And the complaint – even if it relates solely to the wholesale provider's actions or services - would be recorded against Spark as the party who has the retail relationship with the customer, although some of the cost may be shared between parties.

15. Our view is that all potential parties to a dispute should be direct members of the TDRS and treated the same way. The customer should be able to go directly to the party who is responsible if this is clear (eg the organisation the tech is representing), and can then escalate the issue directly to the TDRS if they are not satisfied with the resolution. The TDRS can then decide which parties (eg the fibre company, or the RSP, or a combination) are responsible for the issue and apportion the case fees and any resolution between those parties as appropriate.

16. The current concept of a wholesale member is confusing from a customer's perspective and slows down the process as the RSP ends up acting as a conduit for information rather than adding any additional value.

17. While we support all members of the TDRS being equal in terms of their engagement with customers, we recognise we have an important role to play and that the customer will often want to talk to their RSP for an update on their complaint etc. For this reason we support the TDRS keeping the customer's retail provider informed throughout their investigation and resolution so we can answer questions if the customer contacts us.

18. Increasingly, fibre wholesalers are engaging directly with customers. For example, Chorus is proactively engaging with customers who are not yet connected to its fibre network to get them installed before they sign up to an RSP. Chorus argues this is

more efficient as the customer can then phone an RSP and be connected quickly because their ONT is already in place and they are an 'intact customer.'

Unfortunately, if the customer has any issues with their installation, they are not able to raise the issue with the TDRS as Chorus is not a full member, despite the customer not having a billing relationship with any RSP at that stage.

19. The local fibre companies are not the only parties who may need to be part of a disputes process. In our increasingly interconnected telecommunications ecosystem, there are a variety of third party services providers who should also be considered as members. For example, text messaging aggregators and content providers should also be part of the TDRS so that issues related to their services can be addressed directly.

General awareness of the TDR scheme could be improved

20. There are two sorts of awareness which are relevant to a disputes scheme – general awareness and case specific awareness. It is important when measuring customer awareness to consider both types.
21. We recognise that general awareness for TDRS could be better and welcome the fact that the TDRS Board has approved work in this area. It is important consumers understand there is a disputes body they can use and that they feel empowered to use it.
22. Arguably more important though, is awareness of the scheme for customers when they need it. For example, when a customer has reached deadlock with their provider, or has not reached an agreement within a prescribed period of time. This is the point in time when a customer needs to understand what options are open to them, and what they can do to escalate their complaint, or challenge the response they have received from their provider.
23. When a customer raises a formal complaint with Spark, we provide them with information about their options for escalating their complaint if they are not happy with our response, or it takes longer than six weeks to sort out. This includes the phone number and webpage information for the Telecommunications Dispute Resolution Scheme. We also let them know about other avenues for advice and assistance including The Disputes Tribunal, The Citizens Advice Bureau, The Community Law Centre and The Office of the Privacy Commissioner (for privacy issues). We also include this information in our deadlock letters to customers.
24. Spark includes details on how to raise a complaint with Spark, and how the complaint can be escalated to the TDRS, on our monthly bills to customers. The monthly bill is one of our key customer touch points, and a key prompt for customers to raise concerns or questions with us. It makes sense to have this information to hand in case they wish to raise an issue about their bill. We also have information on our websites about how to complain and how to escalate complaints if the customer is happy with the outcome.

25. We would welcome further discussion of how the telecommunications industry can continue to raise awareness of the TDRS.