

22 February 2021

## **Utilities Disputes Submission on Telecommunications Retail Service Quality Consultation**

Utilities Disputes Limited (UDL) welcomes the opportunity to submit to the Commerce Commission on the Retail Service Quality consultation designed to deliver better telecommunications services and experiences to the consumer in New Zealand and align with internationally accepted best practice.

### **Our background**

UDL is an independent, not-for-profit company that provides fair and independent resolution of disputes about utilities that have not been able to be resolved between the parties. We facilitate a strong relationship of trust between consumers and utility organisations.

We also resolve indemnity disputes between scheme members.

We currently operate three dispute resolution schemes: The Government approved Electricity and Gas Complaints and Broadband Shared Property Access Disputes (BSPAD) Schemes, and a voluntary Water Complaints Scheme.

Each scheme has been tailored to a unique set of requirements; our model includes conciliation, investigation and if needed, a centralised decision maker. We have refined these processes since we began operation in 2001.

UDL is governed by an independent Board. The Board has set up Advisory Committees made up of industry and consumer representatives. This maintains consumer and industry feedback to our operations.

### **Opening comments**

We have based our comments on our experience obtained in operating the BSPAD Scheme since 2017. We have also drawn on insights gained from receiving calls intended for the telecommunications dispute resolution scheme provider from consumers confused as to who they should contact and calling UDL in error. In the year to 1 December 2020, UDL received approximately 174 enquiries about telecommunication issues which were referred on to TDR (Telecommunications Dispute Resolution). We have also drawn on data collected when consumers have contacted us to complain about telecommunications services that have been bundled together with energy services.

When referring to consumers in these submissions we are including small businesses. The reference to energy includes the electricity and gas sectors.

In 2008 the OECD published a report for an OECD ministerial meeting on the future of the internet economy called “Enhancing Competition in Telecommunications: protecting and empowering consumers”. Many of the observations about consumer behaviour and recommendations for improvements made in that report remain relevant in New Zealand today. See the recommendations set out at page 5 of the [report](#).

We note the Commerce Commission’s list of the ten most complained about companies for the period from 1 July 2019 to 30 June 2020, as reported in January 2021, include three telecommunication provider companies. This demonstrates a clear need for improvement from the consumer perspective.

Our comments below are confined to:

1. Switching providers
2. Contracts
3. Bundling of services
4. Length of time to resolve an issue
5. Other feedback includes comments about:
  - a. vulnerable consumers
  - b. family violence.

## **1. Issues when switching providers**

While we are aware of generic public information available through consumer Protection (MBIE (Ministry of Business Innovation and Employment)) and the Commerce Commission (Phone and Broadband) the contact we have received from consumers leads us to believe it is challenging for consumers to do a like for like comparison on telecommunication services and products.

Our experience in resolving consumer disputes in other sectors, shows consumers need to be informed about the terms and cost of services and able to move quickly and easily between providers. Well informed consumers who can choose between providers encourage providers to innovate, improve quality and price competitively.

We believe that a high percentage of telecommunication consumers struggle to identify and understand wireless telecommunications services, what is currently available and what is coming. This confusion can mislead consumers to choose the wrong service and/or pay too much.

### **What would be the best ways to address this?**

From our experience in the competitive electricity sector, we believe the Consumer Powerswitch platform which allows consumers to easily compare service offerings of multiple electricity providers is an ideal way for consumers to easily select the best product for them based on price and personal requirements. The website details all options and savings to the consumer based on their ICP (Installation Control Point) and average usage.

Although there are more variables when considering a telecommunications product, we believe a similar platform to Powerswitch would assist the consumer in making an informed decision when purchasing telecommunications services and products.

## 2. Contract issues

Contracts between providers and consumers can be wordy, dense, and legalistic. The terms of the agreements are usually not easy to understand. The Australian Telecommunications Industry Ombudsman (TIO) recently outlined the most common complaints it receives about contracts. They include complaints that the:

- consumer denies giving consent to enter a contract
- consumer did not have capacity to enter into a contract
- provider has not given a consumer a readable copy of the terms and conditions of their product
- consumer is being held to terms and conditions that are unfair in the circumstances
- provider has changed terms in a contract after the contract was entered into
- provider has charged a consumer for cancelling a contract, but the exit fee does not appear to be a genuine estimate of the provider's loss.

The TIO Annual Report can be found [here](#).

In 2016 a study was carried out by Deakin University's Centre for Organisational Health and Consumer Wellbeing in Australia. The study involved 362 participants who went through a mock mobile phone plan sales pitch. The next day, during a test, only 42% could correctly answer questions about their mobile phone plan. Some of the findings were that many participants did not know about early termination charges, how much data is used for various services, whether 0800 (equivalent) calls were included and the extent of their free SMS limit. We suggest that the results would be similar in New Zealand should a similar study be repeated here.

### What would be the best ways to address these?

Contracts could be shorter and required to adhere to plain English principles. They could also include a cover sheet setting out the main points of the contract which is easily readable and accessible.

## 3. Issues relating to the bundling of services

UDL is seeing more and more telecommunications and energy providers diversifying the services they provide to consumers and then selling them as a bundle package. This trend can be seen in the telecommunications and energy sectors where some providers are supplying energy and broadband/fibre products along with their traditional offerings. For example, one such provider advertises as follows:

*Our bundles are a great way to get your home services all together on one bill and from the same provider. We've got options available for households throughout New Zealand, whether that's a straightforward power plan or a comprehensive power gas and broadband bundle.*

We are seeing energy providers using third party internet service providers (ISPs) to provide fibre services which in some cases can lead to consumer dissatisfaction. UDL has taken a snapshot of some of the complaints relating to bundled services over the past 12 months. Most of these complaints fall outside the jurisdiction of our schemes and were passed on to the telecommunications dispute scheme provider. We received:

- 10 complaints where the consumer believed the install of their fibre took too long.
- 14 complaints where there was a lack of communication and consultation about fibre installation.
- 7 complaints where there was a misunderstanding of the contract.

UDL understands the contract term of bundled packages are often for a minimum of 24 months. We believe this is too long for a consumer to be locked into a contract with a provider as circumstances of the consumer may change as well as market conditions offering better promotions to the consumer.

UDL is finding consumers waiting up to 6 weeks for their fibre to be installed following the switch of energy providers to a bundled service.

For energy providers bundling telecommunication services, this can create barriers to dispute resolution if a consumer must deal with multiple agencies to resolve an issue. It is a potential disadvantage of the TDRS which can only deal with telecommunications related complaints and must refer other complaints elsewhere. Utility providers themselves should not have to engage with two separate dispute resolution services.

Another suggestion would be to have one single utility dispute resolution scheme provider which could reduce consumer confusion and maintain consistency across the sectors.

Global trending supports consolidation of scheme providers to handle utility sector disputes. For example, in the UK, the Ombudsman Services deals with both Energy and Telecommunications. This provides a single seamless point of contact, greater awareness of the dispute service, ease of accessibility and increased consistency of decisions across the utilities sector.

#### **What would be the best ways to address this?**

UDL believes there should be an industry defined or standardised service level agreement when utilising third party ISPs or fibre installation services in bundled offerings.

UDL would prefer providers of telecommunication services to consider reducing the maximum consumer contract length down from 24 to 12 months. We understand by reducing the term, this potentially could increase the monthly instalments. However, it will reduce risk and exposure to the consumer of the longer term if a consumer's circumstances change resulting in break fee charges. Hidden fees, like step up rates after 12 months, might also be excluded or minimised with a shortened term.

#### **4. Length of time given to telecommunication providers to resolve a complaint**

According to the Telecommunications Dispute Resolution Scheme (TDRS) Customer Complaints Code it deadlocks a complaint *"Where more than 6 weeks has passed since the Customer complained to the Scheme Member and no final response has been forthcoming"* or *"A customer is not satisfied with the Scheme Member's final response to a Complaint and the Customer has received a Referral Number."*

We believe a 6-week period for acceptance of a deadlocked complaint is too long.

The Australian Telecommunications Industry Ombudsman (TIO) has a 15-day requirement. Lengthy delays can discourage consumers from following through with their complaints. Most consumers want their concerns resolved rapidly. This is particularly true given the importance of being connected through telecommunication in contemporary lifestyles with some consumers believing such connection is an essential service and others believing it ought to be a basic human right.

#### **What would be the best ways to address this?**

The period for acceptance of a deadlocked complaint should be shortened down from six weeks to no more than 20 working days. This is the time frame for energy complaints. Conciliators can still be involved in assisting providers to resolve the complaint during this period if the parties agree.

## **5. Other potential issues**

### **(a) Vulnerable people**

Telecommunication services are essential for New Zealanders to work, access education, health, government services, and to participate in social and economic transactions. However, individual capacity for accessing and using telecommunications services can vary markedly due to a range of social and economic factors.

Many consumers find themselves in vulnerable circumstances, either for personal reasons (for example, income, age, disability, physical or mental health) or because of market features (for example, unfair practices, complex product or service offerings, information asymmetries, conflicting commercial initiatives, or both).

During our 20 years of experience in handling disputes we have ascertained some key issues with accessibility including more vulnerable parts of our community:

- A persistent issue is struggling to interact with their provider, particularly when the client does not have access to or feel confident using digital channels. We identified digital exclusion as a key issue in 5% of enquiries analysed.
- Some companies only utilise electronic communication at the expense of other channels, which makes it harder for some consumers to interact with them.
- Consumers can have language difficulties in communicating with utilities companies.
- Consumers have service problems with payments or billing.

For UDL, one of the more challenging issues that clients approach us for is when they are struggling to find a utility company to accept them as customers. This may be because of a poor credit record or because they were disconnected by a previous supplier. It can be exceedingly difficult for a client in this situation to access utilities unless there are prepay options. Many energy providers offer prepay options.

#### **What would be the best ways to address this?**

If a consumer is recognised as a vulnerable consumer and is having problems paying their bill the retailer should follow certain procedures to help– and only disconnect the service as a last resort. Many vulnerable consumers are not recognised as that by companies, who sometime

rely on consumers proactively identifying themselves as vulnerable which many would be loath to do.

## **(b) Family violence**

There appears to be a close correlation between economic abuse and utilities. According to the Energy & Water Ombudsman NSW (EWON) annual report for 2020 high debt is often a consequence of economic abuse, with research indicating it is common for an abusive partner to use utilities to manipulate or control their family.

This concern has also been echoed by the TIO in Australia. An 18-month long investigation by the TIO uncovered a "concerning trend" of complaints where consumers experiencing family violence were not always met by telecommunications' standard systems and processes.

The TIO *Meeting the needs of consumers impacted by family violence* report detailed that telecommunications faced four key challenges in meeting the needs of family violence victims. These included being unable to:

- recognise and respond to consumers experiencing family violence,
- understand what consumers needed to stay connected and safe,
- ensure appropriate account security processes, and
- offer the right financial assistance.

The investigation uncovered some of the consequences of telecommunications being unable to meet those needs, such as victims suffering more detriment and further financial hardship. The lack of support also resulted in unauthorised disclosure of personal information, which often led to further dangerous consequences.

## **What would be the best ways to address this?**

The report suggested Telco's could improve their services for consumers affected by family violence by working with family violence experts to develop training for staff, allowing staff to offer highly flexible payment arrangements, reviewing account securities, and listening to consumers about what they need to stay safe.

## **Next steps**

We would appreciate the opportunity to present this submission in person or by video link. If we can be of further assistance at this stage, please contact Hamish Clareburt directly at [h.clareburt@utilitiesdisputes.co.nz](mailto:h.clareburt@utilitiesdisputes.co.nz).

Yours sincerely



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