

# **Review of the Telecommunications Dispute Resolution Scheme**

**Commerce Commission**

2degrees submission, 27 September 2021





## Introduction

Thank you for the opportunity to provide comments on the Commerce Commission *Review of the Telecommunications Dispute Resolution Scheme*, Draft Report, dated 30 August 2021 (**the draft TDRS Report**).

2degrees strive to provide our customers with great services and great customer care. We compete on this, and it's a reason Kiwis choose 2degrees over our competitors. 2degrees now have over [C-I-C] fixed and mobile customers. We've just received Consumer NZ's People's Choice award for both our mobile services and broadband services<sup>1</sup> and with 'Fighting for fair' at the core of what we do, we're pleased to say we've been recognised as not just NZ's fairest telco, but as one of the 'fairest' companies in New Zealand.<sup>2</sup>

Consistent with this, 2degrees is a strong supporter of an effective, efficient industry telecommunications dispute resolution scheme. 2degrees believe there needs to be a sustainable scheme that works for consumers of telecommunications services, is achievable and fair for operators, and supports high standards of service in the New Zealand telecommunications industry.

While we always want our customers to be happy with our service, with millions of interactions per day, sometimes there will be an issue with a tiny minority. We take seriously concerns consumers have with our services and work hard to address these, and if we can't sort these out directly its important consumers have somewhere independent to go to raise these issues.

As indicated to the Commission in December 2020, 2degrees support the TDRS review. We see the review as an opportunity to ensure the TDRS is "up to date" and "to make further improvements for the benefit of consumers".

While overall we consider the TDRS works very well, with very positive feedback from consumers using the service, we identified some areas we considered could be improved for the Commission's consideration. This included addressing the terms of TDRS retail and wholesale membership, accurate reporting for industry stakeholders to ensure both consumers and industry are appropriately informed, a review of the exclusion list to ensure it is clear and up to date, and a more structured consumer application form (to help guide consumers in providing the necessary information upfront). We welcome the Commission's draft TDRS report and consideration of these matters.

## The proposed recommendations

Having reviewed the Commerce Commission draft TDRS report, we are broadly supportive of the areas the Commission has identified to address. This includes improving the way Wholesale Scheme Members (WSMs) are included in the resolution process, encouraging broader membership of the TDRS, improving complaints reporting and reviewing the TDRS Terms of Reference and the Customer Complaints Code. We do note that many recommended changes are already being considered as part of existing TCF work (for example in the current review of the Customer Complaints Code) and that some aspects identified by the Commission already occur, albeit may not be in a formalised process.

Our primary concerns are regarding practical implementation and ensuring that changes are to the benefit of consumers:

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<sup>1</sup> <https://www.consumer.org.nz/articles/mobile-and-internet-satisfaction-survey-2021>

<sup>2</sup> Colmar Brunton Reputation Index 2021.



- **Implementation Timeframe:** While we are largely supportive of the Commission's overall draft timeframe, we consider the draft timeframe for the earlier 'phases' to be very tight and unlikely to be feasible. As outlined in the TCF submission, we support an alternative timeframe that better aligns with what realistically can be achieved with the structure of the TDRS.
- **Changes to the exclusion list:** As previously advised, 2degrees supports a review of the TDRS exclusion list, however the complexity of the proposed changes (including implications for RSPs, WSMs and the Scheme Agent/TDRS capability) will require significant additional work and resource to work through, which we do not consider realistic by December. Clarifications on the Commission's draft recommendations are also required.
- **Automatic deadlocking:** It is important that any proactive deadlocking introduced is in the interests of the consumer. This may not always be the case. While we support a shorter deadlock period than currently exists (6 weeks), we are concerned that the draft proposal of 10 working days will be insufficient to address the more complex consumer complaints that arise. We support a longer period for automatic deadlocking.
- **Consumer Complaint template:** To support timely consideration of TDRS complaints and improved consumer engagement we suggest the Commission support a minimum set of basic information (or a template) for consumers. This will help guide consumers in providing the necessary information for processing a dispute upfront and reduce the risk of consumers needing to resubmit further information.
- **Governance:** We consider all telecommunications consumers, including consumers of smaller telecommunications providers, should be able to use the TDRS and clearer involvement of wholesale providers, as opposed to the current focus on RSPs (which many issues may be at the wholesale level). We acknowledge the Commission's draft recommendations regarding these aspects but note that the Commission, in addition to the TCF, may need to play a greater role here.

2degrees also considers some of the details of the proposed recommendations will need closer consideration and potential amendment as worked through.

While the Commission's review and this submission is focussed on potential areas for improvement, it is important to recognise the overall positive feedback on the TDRS. The Commission acknowledged that the TDRS has many of the basic components that a dispute resolution scheme requires in order to deliver appropriate consumer outcomes, that it generally aligns with many of the key principles of a successful dispute resolution scheme and that "[W]e found that most consumers who interact with the scheme experience early resolution of their disputes, and those who progress to the more formal mediation and adjudication processes say they are reasonably well served". This is reflected in our own experience and in the consistently very high Net Promoter Scores (NPS) of the TDRS<sup>3</sup>.

The remainder of this response discusses some areas of concern in more detail. We look forward to working with the Commission, TDRS Scheme and the TCF on addressing these and making further improvements to the TDRS for the better of consumers.

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<sup>3</sup> Consumers are very satisfied with the TDRS service, consistently giving it a very high Net Promoter Score (NPS) rating, including +73 for the Financial Year to June 2020. 89% of complainants indicated they were satisfied or very satisfied with their experience of the scheme.



## Proposed Implementation Timeframe

2degrees are supportive in principle of making timely changes to the TDRS to support consumers. However, the Commission has proposed a very tight timeframe, following the publishing of its finalised report in November. 2degrees and industry - as outlined in the TCF submission - are concerned this is unrealistic and doesn't line up with the structure of the TDRS scheme.

The Commission has suggested that its final recommendations should be implemented across four phases over the next 18 months (Phase 1 by December 2021, Phase 2 by April 2022, Phase 3 by August 2022 and Phase 4 by April 2024).

To implement the recommendations efficiently and effectively, 2degrees supports the TCF proposal for a staged approach that reflects the structure of the TDRS scheme. Under this timeline implementation of the key changes (Phase 1 to 3) will still be completed by August 2022, including some interim measures by December 2021<sup>4</sup>, recognising that some issues e.g. Phase 4 issues, may take longer and are ongoing in nature. Changes at the governance level underpin changes to the Terms of Reference and the Customer Complaints Code, and for this reason, governance and TDRS Terms of Reference should be amended prior to the review of the Customer Complaints Code. The TCF submission provides further details on proposed timing.

## Changes to the exclusion list

As previously advised, 2degrees supports a review of the TDRS exclusion list, although given the complexity of issues and resource implications of proposed changes (for both operators and the TDRS ), we do not consider a 21 December deadline to be realistic.

For example, these proposed changes impact the engagement of retail versus wholesale service providers, resources and costs of the scheme, and TDRS capability to address new issues in scope.

We also note that the Commission appears to consider that consumers are not able to approach the TDR regarding complaints about devices sold by operators. This is not the case. Customers can raise such complaints with operators; the exclusion the Commission considers should be removed relates to ensuring providers are not liable for devices that consumers have purchased *from other parties* to use the operator's telecommunications services. There are hundreds of potential devices and our teams are not familiar (or necessarily have any knowledge of) other devices. Given this understanding, we do not think this would be the Commission's expectation and seek clarification on this matter.

## Proactively deadlocking complaints in 10 working days

2degrees actively communicate and negotiate with customers if an issue with our service is raised by a customer. We want to resolve any issues. To do this, both parties need to share information and sometimes the process of sharing, investigating, and analysing information can take time. For example, some complaints may involve a third party and take longer to address. While it may appear to the Scheme Agent that nothing is occurring, there are often private communications between the provider and customer to resolve the issue. A proactive

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<sup>4</sup> Under this proposal the interim changes, including industry codes being included in the jurisdiction of the Customer Complaints Code, ensuring customers do not have to resubmit information, the *TDRS communicating to the Scheme Member of their obligation to cease any credit recovery or disconnection action, and all parties are provided with the opportunity to respond to submissions would be implemented by December 2021.*



deadlocking initiative may unwittingly undermine this process and not be in the interests of the consumer.

While we support a shorter deadlocking period than the current 6-week timeframe (which does not stop 2degrees proactively advising the Scheme Agent and customer that a deadlock is required well in advance of the 6-week period), we do not consider that a 10 working day deadlock period, as proposed in the Commission's draft report, is sufficient or achievable to address many of the complex consumer issues that can arise.

2degrees support a longer period that is agreed by the Scheme Agent and Scheme Members to be achievable. As for the current 6-week timeframe, we note the proactive deadlocking timeframe *does not* prevent deadlocking earlier than this time - which 2degrees actively do to resolve consumer issues earlier when we consider appropriate.

## Consumer complaint details required

In order to address disputes in a timely way it is important to ensure that industry operators have sufficient information about issues being raised by consumers. This will be particularly important with shortening of deadlocking periods.

Operators are not able to resolve issues with insufficient information. We consider it would assist both consumers and operators in assessing and resolving issues in a timely way if structured basic information was provided at the outset.

To support this, we suggest the Commission support a minimum set of basic information (or a template) for consumers. This will help guide consumers in providing the necessary information upfront, reduce out-of-scope contacts and associated consumer frustration, and assist in reporting. We also support the development of further case studies to support this.

2degrees would like to work with the Commission, TCF and the Scheme Agent/Members to ensure a clear and fair minimum standard of information is developed.

## Governance

As identified in our previous submissions to the Commission on this matter, we consider all telecommunications consumers, including consumers of smaller telecommunications providers, should be able to use the TDRS. In addition, we have concerns regarding the current focus of the TDRS on Retail Service Providers (RSPs), when many of the consumer complaints relate to services provided to RSPs by wholesale-only suppliers, in particular Local Fibre Companies, which may in large part be out of RSPs direct control (which has implications for consumer responsiveness, TDRS cost allocations and complaints reporting).

We acknowledge the Commission's draft recommendations DR15 (Improve the complaints handling process to ensure that consumers' complaints that involve Wholesale Scheme Members are resolved quickly and efficiently) and DR23 (the TCF should actively encourage a broader membership of the TDRS). These recommendations include that the TCF engage on a regular basis with smaller telecommunications providers to encourage them to join, and to understand and address the potential barriers to them becoming Scheme Members. We also consider that the Commission has a role to play in supporting membership of the TDRS.