



**TCF Submission to
Commerce Commission
on the Draft report to the TCF on recommendations for improvement to the
Telecommunications Dispute Resolution Scheme**

27 September 2021

A. Introduction

1. The New Zealand Telecommunications Forum (TCF) welcomes the opportunity to respond to the draft report to the TCF on recommendations for improvement to the Telecommunications Dispute Resolution Scheme (TDRS).
2. The TCF wishes to ensure the TDRS continues as a sustainable scheme that works for all consumers of telecommunications services, is achievable and reasonable for Scheme Members, and supports high standards of service in the New Zealand telecommunications sector.
3. The TCF, as the legislated Scheme Provider, makes this submission after discussions with Scheme Members, the Scheme Agent (dispute resolution provider) and the TDRS Council. Many of these entities may also submit an individual response to the Commission's draft recommendations.

B. General comments

4. The TCF supports the high-level findings of the review and is committed in principle to achieving the Commission's recommendations. Many recommended changes are already part of a TCF review of the Customer Complaints Code (the Code) which was started prior to the Commission's review.
5. The Commission has suggested implementing its recommended actions across four phases over the next 18 months, which is helpful for us to understand the Commission's priorities. To implement the recommendations as efficiently as possible, the TCF would prefer a staged

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approach that reflects the structure of the scheme, but still achieves implementation by August 2022.

6. The TCF agrees in principle with most of the individual recommendations but requires further clarification on some in order to understand the actions that will be needed.
7. This submission is structured as follows:
 - i. outline of action
 - ii. early actions to operationalise recommendations by December 2021 (Phase I)
 - iii. staged TCF actions to implement recommendations by August 2022 (Phases II-IV)
 - iv. clarifications
 - v. additional items
 - vi. Appendix – proposed amended timeline

C. Outline of action

8. The TCF can ensure initialising of Phase I recommendations by December 2021. These actions will be more formally folded into a review and update of the Code during 2022, noting there may be some issues enforcing changes for non-members before they are codified formally.
9. From November 2021 to August 2022 the TCF seeks flexibility to schedule Phase II and III actions most efficiently for the Scheme Agent, TDR Council and Scheme Members. We would start with recommendations relating to TDRS governance and Terms of Reference. Review of the Code would then naturally follow the new governance arrangements. Governance, Terms of Reference and Code review to be completed by August 2022.

D. Early actions: draft recommendations for Phase I

10. DR3. The TCF proposes separating DR3 into two parts.
 - i. The TCF can complete an interim amendment to the Code by December 2021. The amendment would ensure that the TDRS scope, as required by the Telecommunications Act 2001 (the Act), covers a Commission Code or an industry Retail Service Quality code¹.
 - ii. With respect to removing clauses 18.1.4, 18.1.6 and 18.1.21 from the Code, the TCF will need to refer this back to the Code review completed by August 2022, because complexities in interpreting and implementing the exclusions will first need to be resolved by the Scheme Agent and Scheme Members.
11. DR14. The TCF supports DR14 in principle and can achieve the recommendation by December 2021. The Scheme Agent has indicated it can operationalise proactive deadlocking within weeks. The TCF will request that the Scheme Agent provides us with an updated process by December, which would then be implemented by the Scheme Members.

¹ Telecommunications Act 2001, s 247

12. DR16. We seek clarification from the Commission on its statement (cl 150), *“The TDRS typically requires consumers to put their complaint in writing on two separate occasions during the complaint initiation process.”* We assume that the Commission is indicating that a full re-submission is being required rather than referring to additional information that is recorded cumulatively in the course of the investigation.

The TCF supports DR16 in principle and will discuss with the Scheme Agent to ensure its processes avoid a requirement to fully re-submit a complaint. This will necessitate customers providing a minimum set of information to ensure the complaint can be adequately assessed and allow the TDRS internal complaints handling processes to permit cumulative addition of information through the investigation period, as necessary. Changes to processes are achievable by December 2021.

13. DR17. The TCF supports DR17 in principle and the Scheme Agent can achieve this by December 2021. The TCF recognises there is a communication aspect to this recommendation and we will facilitate a discussion between the Scheme Agent and Scheme Members about what should be communicated to consumers and what is the appropriate action by RSPs in situations where an invoice may have some components under dispute and others which are not under dispute and are due for payment.
14. DR18. The TCF supports DR18 in principle. It can be achieved by December 2021 through a change in process by the Scheme Agent then, during 2022, incorporated into the updated Code. The Scheme Agent’s service level agreement will require review to ensure alignment.

E. Staged TCF actions to implement recommendations by August 2022 (Phases II-IV)

15. The TCF supports a phased approach to implementing the recommendations set out in the TDR Report. However, considering all of the interdependencies the TCF proposal is to streamline actions to meet the recommendations, staged according to the structural hierarchy of the scheme.
16. We propose that we begin by actioning recommendations on governance followed by Scheme Terms of Reference and lastly the update of the Code which depends on the governance and Terms of Reference. We have suggested a timeline accordingly (refer to appendix for diagram).
17. Review and adjustments to the governance structure is a key aspect to the TDRS Review, agreeing and implementing changes at the governance level underpins the changes to the Terms of Reference and the Code. This is reflected in the revised phasing timeline.
18. Furthermore, the TCF, TDR Council and the Scheme Agent agree with the Commission that there are recommendations that can be implemented earlier, in line with the draft Report. To further support an amended phasing, DRs 9, 14 and 19, which are currently in Phase II, could be implemented by December 2021.
19. The TCF suggests updating the Commission in early December 2021 on progress towards meeting the 21 December deadline, and again in March and June 2022 on progress towards meeting recommendations due in August 2022. We are happy to work with the Commission on progress reporting.

F. Clarifications and responses

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20. Clarifications of the recommendations are sought to avoid misunderstanding of their intent and amendments are suggested to strengthen achievability of the scheme.
21. Clause 18.1.4, as referred to in DR3². We seek clarification of what is being referred to in the exclusion of Cl 18.1.4. Members support the current Code exclusion: “equipment and/or applications the Customer owns which the Scheme member does not support”³. They note that DR3 describes this exclusion differently, “equipment sold by a telecommunications provider to a consumer”. We seek clarification if this difference was intended and, if so, the significance of the revised wording.
22. In line with the principle of fairness in a TDRS, the TCF asks for expectations of service to be clarified where possible to reduce unreasonable complaints. For example, (DR3, removal of cl 18.1.21) complaints about network speed might be limited to not meeting commitments or promises made, rather than a more subjective standard. This will be considered further as part of the Code review.
23. DR13: The TCF agrees that the deadlock period should be reduced; however, it seeks a period longer than 10 days that is agreed by Scheme Members and the Scheme Agent to be achievable. The TCF will work with the Scheme Agent to ensure complaint handling is consumer-focussed and has flexibility to meet the needs of the consumer.
24. DR24: The TCF supports access to timely and affordable advocacy for consumers but prefers alignment with the Disputes Tribunal in respect to involvement of lawyers. Where a customer chooses to engage a lawyer, the TCF supports the current Code (cl 34.8.5) exclusion of consideration to compensate for costs to compile or pursue complaints through the TDRS.

G. Additional Items

25. The TCF has reflected on the recommendations and makes the following additional suggestions to improve monitoring, reporting and effectiveness of the Scheme.
26. To ensure an understanding of where consumers are going with their complaints the TCF seeks collaboration with the Commission to ensure that all relevant complaints about telecommunications services are captured through the TDRS and included in reporting.
27. For consistency of data collection, reporting and communication, the TCF seeks agreement from the Commission that the current Code definitions of “enquiry”, “complaint” and “dispute” will be used by both organisations and other entities involved in the TDRS.
28. The TCF supports all consumers having equal protection. A wider conversation is required on making the TDRS a mandatory scheme for all retail service providers. This is a complex area and would potentially require a re-working of key components of the Act.

H. Conclusion

² The Report refers to cl 18.1.14, the TCF has assumed this is an error and that it should be cl. 18.1.4

³ Clause 18.1.4 of the TCF Customer Complaints Code

29. The TCF is committed in principle to achieving the Commission's recommendations and is beginning its planning processes to ensure that Phase I, II and III actions are completed by August 2022.
30. We have sought clarity, amendment or change to some recommendations to ensure achievability of the required programme of change for the scheme.
31. Beyond the specifics of the recommendations, the TCF has made additional suggestions for strengthening the scheme through agreement and collaboration with the Commerce Commission.
32. The TCF looks forward to further engagement with the Commerce Commission on the TDRS.
33. For all enquiries relating to this submission please contact: [Jane Moginie](#)

Yours sincerely



Paul Brislen
CEO
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Appendix: Proposed TCF Timeline to Implementation

	24 Dec 2021	1 AUG 2022	1 APR 2024
Phase 1	<div style="background-color: #4F812D; color: white; padding: 5px;"> <p>TDRS Process: Includes: DR3a, DR4, DR8, DR9, DR10, DR14, DR16, DR17, DR18, DR19</p> </div>		
Phase 2/3	<div style="background-color: #FFC000; color: black; padding: 5px;"> <p>TDRS Governance (ToR / CCC), awareness, guidance and quality improvements: Includes: DR1, DR2, DR3b, DR5, DR11, DR13, DR15, DR18, DR20, DR21, DR22, DR23, DR24</p> </div>		
Phase 4	<div style="background-color: #76C74A; color: black; padding: 5px;"> <p>Improving reporting, publishing determinations and encouraging broader membership: Includes: DR6, DR7, DR12</p> </div>		
	<p>Not included additional items raised by TCF</p>		