

Submission on the review of the TDRS

27 September 2021

C H ● R U S

Overview

1. Chorus believes that the Telecommunications Dispute Resolution Scheme (**TDRS**) works well for both the industry and end-users (referred to as 'customers' in the Customer Complaints Code (**Code**)). In our experience it enables disputes to be resolved in a timely way at no cost to end-users and at a lower cost to industry members than alternative dispute resolution mechanisms. It is particularly positive how many disputes are able to be resolved directly between retailers and end-users without requiring formal adjudication.
2. Given the benefits of the scheme, it is obviously desirable that as many end-users are as aware of the TDRS as possible. We remain concerned at the gap that exists due to the voluntary nature of the scheme, where some end-users are unable to access the TDRS to resolve their complaints and are likely unaware of this when they choose a particular retailer.
3. We support the majority of the Commerce Commission's draft recommendations in its Review of the Telecommunications Dispute Resolution Scheme for the TDRS, and endorse the submission provided by the Telecommunications Carriers Forum (**TCF**). Therefore, for our own submission we have focused on elements that relate to Chorus specifically and our role in the TDRS.
4. We would also note that while the amendments to the TDRS will assist in improving the process of making and resolving a complaint better for end-users, the ultimate goal should be that the end-user does not have a complaint in the first place. Improvements in the wider Retail Service Quality space are therefore likely to have a greater impact on end-user satisfaction and should continue to be a focus for both industry and the Commission.

Chorus context

5. The telecommunications industry benefits by having a robust, well-known adjudicator to resolve issues that arise between end-users and their retail service providers. Chorus supports the TDRS through our membership as a Wholesale Scheme Member (**WSM**). This membership enables us to be added as a party to complaints involving us and to work alongside Retail Scheme Members (**RSMs**), where relevant, to resolve disputes. It also means that where Chorus is found to be at fault, costs can be awarded against us, as well as responsibility for the complaint fee (rather than the end-users' RSP).
6. The distinction between RSMs and WSMs is an important one. Our different role as a WSM is because our contracts and obligations are to the RSM that we are providing wholesale services for, which then develops retail products. Despite being a significant part of the telecommunications market, our role in relation to end-users is primarily as a representative for the RSMs (in areas like fault restoration and fibre installations) and to support them to serve their customers.
7. Chorus is involved in only a small proportion of overall complaints made to the TDRS. For the year ending June 2020 of the 2,800 complaints made 192 of these involved Chorus, with only 4 of these going to adjudication. While we have

responsibilities to end-users under the Copper Withdrawal Code, overall we anticipate that as the fibre network build is completed and a growing proportion of properties have an intact fibre connection the number of interactions we have with end-users will fall over time.

General assessment findings

8. We agree with the Commission's findings that the TDRS broadly works well, and while we have not seen any issues of concern with regard to the independence of the board we support the changes proposed to improve perception and public confidence in the TDRS. We also support amending the Customer Complaints Code to achieve better outcomes for end-users and align with best practice for dispute resolution services.

Awareness

9. The TDRS provides a useful mechanism for end-users and retailers to resolve disputes that cannot be settled between them; however, this relies on end-users being aware of the scheme. We support the increase in activity in recent years to publicise the TDRS and suggest that this continues along the lines encouraged by the Commission in its draft recommendations.

Complaint handling

10. We support the draft recommendations aimed at improving the accessibility of the TDRS, for example ensuring that end-users are not being asked to submit complaints more than once, RSMs being reminded to cease credit recovery action while complaints are considered, and the opportunity for parties to respond to others' submissions and ensure key facts are accurate before determinations are finalised.

Deadlocks

11. We support the draft recommendation to shorten the period before a complaint can be deadlocked, however from our experience a resolution being completed within 10 days simply may not be possible in the kinds of disputes we participate in. For example, arranging driveway remediation or situations where work may be required in the road reserve cannot be undertaken without the appropriate permits and approvals from council or NZTA, which can take several weeks to obtain. We would support amending this to 20 working days, or that a resolution should be agreed within that time rather than completed. This timeframe would also align with the deadlock period used by Utility Disputes.

Complaints involving Wholesale Scheme Members

12. We support amendments to the Code to provide clearer guidance for the way complaints involving WSMs are processed, including when we are notified of complaints, and look forward to engaging on these issues as part of the Code review process.

Systemic issues, position statements and case studies

13. Given the TDRS' unique perspective in handling incoming queries and complaints across all RSMs' customers they are ideally placed to identify systemic issues and report these to industry and the wider public. We support the recommendation to publicise these. Not only is this transparency in the interest of the industry, but also provides clarity as to where best to focus future improvements to retail service quality.
14. The publication of clear updated position statements and case studies is also a useful way to provide guidance as to how certain complaints will be handled and the expectations on both parties in relation to common issues.

Governance

15. Though we think generally the TDRS works well, we appreciate that there may be a perception that the scheme lacks independence because of the structure and therefore support resolving this as part of the TDRS review.

Jurisdiction

16. We support the amendments to make clear that the TDRS has jurisdiction to hear 111 Contact Code, Copper Withdrawal Code, and Commission Code Complaints.

Membership of the TDRS

17. We support the recommendation for the TCF to encourage a broader membership of the TDRS. That said, there are already many incentives for the TCF to seek to include the remaining RSPs that have not joined, and it is unlikely that all RSPs will join unless the TDRS is made mandatory for retailers. The Commission could also consider how it could encourage RSPs to become members.

Removing exclusion for parties represented by lawyers

18. We think the recommendation to allow complaints involving lawyers to be included within the jurisdiction of the TDRS is inconsistent with the other measures to replicate aspects of the Disputes Tribunal. The involvement of lawyers would likely change the nature of the TDRS as a low-cost adjudication system to a more expensive disputes scheme for all parties involved.

Raising compensation limits

19. We support in principle the recommendation to align the compensation limits with the Disputes Tribunal's. Our current practice is to pay actual costs of remediation (as an example), rather than artificially limiting this to the \$15,000 cap. However, we appreciate that for end-users who have a claim greater than \$15,000 they may not think that the TDRS is a suitable avenue for remedy and that raising the stated cap

would assist with encouraging these parties to take their claim to the TDRS rather than elsewhere.