



**TCF Submission to
Commerce Commission
2024 Review of the Telecommunications Disputes Resolution Scheme
23 May 2024**

A. Introduction

1. Thank you for the opportunity to comment on the Commerce Commission’s proposed review of the Telecommunications Disputes Resolution Scheme (TDRS).
2. This submission is provided by the New Zealand Telecommunications Forum (TCF). The TCF is the telecommunications sector’s industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent 95 percent of New Zealand telecommunications customers.
3. The TCF accepted the 24 recommendations the Commerce Commission made in its TDRS Recommendations Review Report 2021, and implemented the relevant changes to the governance of the TDRS and industry code, referred to as the TCF Customer Complaints Code. We also made a number of operational updates, which was a substantial piece of work for the TCF and TDR.
4. The TCF completed implementing the 21 recommendations from the 2021 Report in July 2023:
 - i. Phase 1 delivered improvements to the TDRS customer dispute process while also increasing consumer awareness of the scheme¹.

¹ TCF Letter to the Commerce Commission re TDRS Project Update Dec 2021

- ii. Phase 2: delivered governance changes with the creation of a new entity - the Telecommunications Disputes Resolution Limited (TDRL)² - established to ensure independence from the TCF. A new independent chair was appointed and a new board recruited, with three consumer representatives and three industry representatives selected from scheme members. As part of the governance review, a new TDRL constitution was drafted and supported by revised terms of reference (ToR) for the scheme. New improved industry customer service standards and minimum requirements for providers' internal complaints processes were developed and published as the TCF Customer Care Code (this Code is mandatory for all TDRS members).
5. The implementation of Phase 3 of the recommendations from the 2021 Report - focused on improving reporting, publishing determinations and encouraging broader membership - continues as part of the TDRL's ongoing strategy.
6. The new scheme has been operational for less than 12 months, not long enough to assess the impacts of the changes on improving outcomes for consumers. There is not yet a sufficient baseline to understand how the changes have benefited consumers, risking further changes being recommended/implemented without sufficient evidence to justify or support them.
7. The TCF understands that the Commerce Commission has to undertake a review of the scheme before 2025. Given that the new scheme has been operational for less than a year, we recommend that the Commission does not review the parts of the scheme that were changed following the 2021 review.
8. The TCF does not make any specific recommendations to the Commerce Commission to include in this review.

B. Response to specific questions:

9. How effective have the changes to TDRS been in improving outcomes for consumers?
 - a. The structural governance separation from the TCF has been a key improvement, which went further than what was recommended by the Commission in the 2021 review. We are already seeing positive outcomes from this, such as TDRL being in the process of appointing a CEO for the entity who will advocate on behalf of the scheme to improve the effectiveness of the scheme and raise consumer awareness of the scheme. This was enabled by an increased TDRL budget which is funded by all scheme members.
 - b. Since 2021, the scheme has increased its membership which is in part due to TDRS's consumer awareness campaign, awareness raising by the TCF and the work

² TCF Letter to Commerce Commission TDR Review Project Update 19 July 2023

the Commerce Commission has undertaken on disclosure requirements for providers.

- c. The TCF worked closely with wholesalers to improve their interaction with the scheme when dealing with customer disputes that are relevant to wholesalers' activities. Consumer access to the scheme has increased as a result, with improved consumer outcomes when a dispute involves a wholesaler.
 - d. The TCF and TDRL have established processes for reporting potential systemic issues and breaches of the TCF Customer Care Code and other TCF Codes by members.
 - e. The scope of what can be taken to TDRS by a consumer has been expanded, by reducing the number of jurisdictional exclusions from 24 to 8. This supported the intention of the Commission's R3b in the 2021 Review Report. Although the three exclusions listed in R3b were not removed, they were reworded to clarify the intent of the exclusion. For example:
 - i. Consumers can now make a complaint within three years of the customer becoming aware of the issue (previously this was within 12 months). This aligns to MBIE's disputes resolution best practice.
 - ii. Reducing the deadlock period from six weeks to 15 working days has created a more efficient and timely process for consumers. This change has ensured that a consumer is able to seek assistance earlier if their concerns are not dealt with effectively by their provider.
 - iii. A complaint can be made relating to broadband speed and a customer's mobile coverage.
 - f. The effectiveness of changes, such as improved efficiencies in the complaints process for consumers and scheme independence from the TCF, cannot be solely based on the impact of awareness raising activities and numbers of complaints. A robust cost benefit analysis would explore the effectiveness of the actual outcomes against the cost of achieving those outcomes, particularly against the increased costs to TDRS members. In other words, are consumers materially better off as a result of the scheme changes?
10. Are there any other ways TDRS could be improved for the benefit of consumers and to maintain best practice in this area?
- a. Factoring in the time since recent recommendations have been implemented, the TCF has no recommendations on other ways the TDRS could be improved for the benefit of consumers at this stage.
11. Are there any issues or opportunities that should be addressed in this review?

- a. Membership: TCF members are an exemplar, due to the TCF requiring compulsory membership of the TDRS. There could be further work that TDRL and the Commerce Commission could carry out to increase membership of the scheme across industry. The TCF is recommending to MBIE, in response to its Enhancing Telecommunications Regulatory and Funding Framework discussion document, that the Telecommunications Act 2001 be amended to support mandatory membership of a telecommunications disputes scheme for all telecommunications providers.

Conclusion

12. By June 2023, the TCF had successfully implemented all 24 of the recommendations made in the Commerce Commission's 2021 Report, as well as establishing a more independent governance framework which went beyond the Review recommendations. We see the benefits already flowing through to consumers as a result of these changes.
13. The TCF is not making any new recommendations to the Commerce Commission as part of this review based on the fact that there has not been sufficient time for the new TDRL board to implement its strategy. There is no evidence that indicates further major changes are required at this time to the operations and governance of the TDRS, and the outstanding issue of membership will likely be addressed through the MBIE regulatory framework process.
14. For further information relating to this submission please contact Clare Dobson:
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