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To: Telecommunications Industry Ombudsman

By email: members@tio.com.au

RE: Implementing changes to reclassification

The Internet Association of Australia Ltd (**IAA**) thanks the Telecommunications Industry Ombudsman (**TIO**) for the opportunity to respond to the consultation on implementing changes to reclassification.

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers, many of whom are part of the TIO Scheme and thus Members of the TIO. IAA is also a Member of the TIO, although we are a primarily wholesale service provider offering interconnection services, and do not provide standard communications services to residential consumers. This response is therefore primarily in representation of our members, as well as the greater public good of the telecommunications industry.

In general, we support changes being made to the TIO's reclassification and complaint referral process. However, we do not support the changes proposed in the Member Consultation Pack. We are concerned that the proposed changes will result in a complaint referral and reclassification process that is not in line with the *Telecommunications (Consumer Complaints Handling) Industry Standard 2018* (the **Standard**) and would force providers to meet expectations beyond those that are stipulated in the Standard. Changes to the TIO's reclassification and complaints referral framework should be implemented in a manner that benefits both consumers and providers, via easy, transparent and fair processes that prioritises efficient complaints handling.

We also take this opportunity to request that for future consultations, more information is provided in the consultation pack including a glossary of the terms used by the TIO in respect of its processes. Smaller providers often lack the resources to engage in consultations on processes and systems that affect them. Lowering the barrier to such engagement by providing consultation papers that are clear and provide sufficient information to assist understanding of the proposed changes will result in outcomes that have more stakeholder involvement and insight.

REASONABLE STEPS

PART 1: GUIDELINES

We support the TIO's proposal to develop guidelines on what is considered a reasonable attempt to contact a provider to make a complaint, prior to lodging a complaint with the TIO. However, we strongly disagree with scenarios the TIO proposes it would consider to be a reasonable attempt (**Proposed Guidelines**). The Proposed Guidelines are vaguely worded and could be easily be

misinterpreted, and in some cases abused, meaning consumers to go straight to the TIO without actually giving providers a reasonable attempt to resolve the issue.

For example, it is unclear what “Being unable to speak with a representative after being on-hold” means. It could be interpreted as the line cutting out while the consumer is placed on-hold, but it could also be interpreted to mean when a consumer is placed on-hold for a long period (which is also subject to interpretation), while waiting for a representative. We understand the frustrations associated with being placed on-hold for an excessive time. However, we are concerned there is no practical or efficient way for prove whether a consumer did indeed attempt to raise the complaint with the provider, prior to lodging the complaint with the TIO, or whether the consumer was really placed on hold for an excessive period, to justify complaining to the TIO rather than the provider.

Similarly, “Being redirected within departments, without having the issue addressed” leaves it very open for interpretation, including being redirected once with the first representative not being able to address the issue. Furthermore, what “having the issue addressed” entails is also vague. It is unclear whether the consumer should expect to have the issue simply noted, for the relevant department to try and resolve, or whether the consumer should be provided a resolution in that instance.

Whereas “Not being able to find a phone or contact method to make a complaint” may be better-phrased as “The provider does not publish or provide a phone or contact method to make a complaint”, to ensure that it is an issue that lies with the provider not meeting its obligations under the Standard, as opposed to the consumer merely overlooking an otherwise prominently displayed and readily available contact method.

In respect of each of the scenarios in the Proposed Guidelines, there needs to be greater clarity. As it is currently drafted, they do not seem to be genuinely reasonable attempts that should be accepted.

In response to the consultation held for Independent Review of the TIO in 2022 (**Independent Review**), many industry representatives noted their desire for consumers to have to provide a complaint reference number to prove the consumer has indeed contacted their provider prior to raising the complaint with the TIO. This continues to be the viewpoint of our members, however, we understand that the Independent Review did not support this perspective. Nevertheless, this highlights the gap that already exists between providers and consumers as to what constitutes a complaint being made. The TIO’s Proposed Guidelines would only widen that gap, resulting in further frustrations for both providers and consumers.

Thus, we propose that the guidelines specify what is expected of a provider in accordance with the Standard in plain English, to ensure that consumers understand what the baseline standards are. For example, the guidelines should specify that consumers should give providers a reasonable chance to consider and respond to the complaint, in accordance with the timeframes set out in the Standard. This should improve the gap in understanding between consumers and providers as to what constitutes reasonable attempts to make, and resolve, a complaint prior to it requiring TIO intervention.

We also note that the Independent Review noted, and TIO staff also recognised, that the TIO collected only “limited information” at the referral stage of the complaints process. Although taking more detailed information may increase costs, the Independent Review commented that

there needs to be balance struck, that is currently not met. We strongly believe that the TIO needs to collect more information on the method of a consumer's reasonable attempt to contact their provider to assess whether an attempt was actually made, and whether a provider was given a reasonable opportunity to resolve the complaint.

PART 2: NO CHANCE TO CONSIDER RECLASSIFICATIONS

It is not clear from the Consultation Member Pack why a referral would be logged where a consumer has not shown details as to making contact with the provider, or has not allowed the provider to respond to the consumer's complaint in writing. At this stage, it seems that the TIO should advise to the consumer that they must:

- Make contact or take reasonable steps to make with the provider; and
- Allow the provider a reasonable chance to respond in accordance with the Standard.

The TIO should require the following information to determine whether reasonable steps were taken to make contact:

- Date of contact;
- Method of contact; and
- Circumstances that resulted in the failure to make contact.

PART 3: TIMEFRAMES FOR PREVIOUS CONTACT

We understand that the TIO intends to accept complaints made by a consumer to their provider in the last 2 years, possibly accepting complaints made in the last 6 years. 6 years seems to be an unreasonably long period that obfuscates the principle of efficiency and fairness. We presume that investigating issues that occurred such a long time ago would be difficult for all parties involved.

This would also force providers to have to retain personal information of its customers for an unreasonably long period, which is not in the interest of consumer privacy. We further note that the record retention requirements under the Standard for complaints is 2 years from the date the complaint to the provider is recorded. TIO processes should be in line with the regulation, and not create a new standard that providers would have to meet.

Even the proposed 2-year period seems to be long and does not promote efficiency. Instead, in its guidelines, the TIO should encourage the consumer to bring an unresolved complaint to the TIO within 6 months of the complaint being raised with the provider. However, the TIO should accept complaints made within the last 2 years, where there are extenuating circumstances that prevented the consumer from lodging the complaint with the TIO sooner. For example, if the provider failed to meet its obligations under the Standard and did not notify the consumer of their right to escalate the matter to the TIO, and so the consumer was unaware the external dispute resolution mechanism existed, then this would be a case where the consumer should be able to lodge a complaint with the TIO even after the 6 month period.

APPROACH TO RECLASSIFICATION

We do not agree with the proposal to decline reclassification requests where a complaint is resolved after the consumer has made a complaint to the TIO. In particular, where a consumer has made a complaint but has not given the provider a reasonable opportunity to resolve or respond prior to lodging a complaint with the TIO, a reclassification request where the provider has resolved the issue before the TIO has referred the matter to the provider should be reclassified.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the TIO's reform of its reclassification process. We appreciate the TIO's efforts to improve its complaints handling process. However, to that end, we believe that some of the proposed changes will not result in a positive outcome that prioritises a fair and efficient complaints handling model that is to the benefit of all involved. We offer our feedback with sincere hopes to help the development of a complaints process that is to the benefit of the telecommunications sector, including consumers' experiences with the telecommunications industry.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia (IAA) is a member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (WAIA), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IX-Australia is a service provided by the Internet Association of Australia to Corporate and Affiliate members. It is the longest running carrier neutral Internet Exchange in Australia. Spanning six states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Narelle Clark
Chief Executive Officer
Internet Association of Australia