CONSUMER SAFEGUARDS REVIEW

PART A REDRESS AND COMPLAINTS HANDLING

Submission lodged by B Bebbington

The current situation of monitoring is not working not because of the lack of legislation, standards and codes, but through the failure of the regulator and the TIO.

When queried, ACMA said it would not act on non compliance with the standards because the federal government had a deregulation policy, so it would not act in case the government changed the standard.

Whilst the regulator has this attitude, there is no consumer safeguard.

Add to this an ombudsmen that will not make independent determinations based on the standards, codes and legislation, the consumer safeguards become useless.

I had to prove to the TIO they were wrong and this required me to show the TIO what the ACMA website showed as their position on an element of the standard.

The public should not have to fight the regulator and ombudsmen as well as their provider.

The ACCC also refuses to act because there is a regulator to do the job.

The ACCC advised in writing it had gone to the regulator to get an opinion on how good a job the regulator was doing in order to determine whether it should investigate a complaint about the regulator.

State consumer affairs will not investigate telecommunications complaints because there is a regulator and an ombudsmen.

PROPOSAL 1 INDUSTRY COMPLAINTS HANDLING

 The new complaint handling standard still has a fatal flaw.

That is the ACMA.

Prior to the introduction of the new complaint handling standard, it had enforcement powers to compel compliance with the regulated requirements.

It just refused to act.

Nothing has changed in relation to its powers.

So why is this going to work?

The proposal states that ACMA mat audit for compliance.purposes.

ACMA audits mass service disruption exemption notices and has put in writing it found no compliance issues. After a lengthy attempt by me to get ACMA to look at the issue, they asked me to show five examples where I believed mass service disruption exemption notices were non compliant.

Despite ACMA saying their audits found no issues, they conceded there were non compliance issues and advised Telstra what was needed for compliance and notification.

How good is their audit process?

Is there any audit process?

The fault lies with the regulator, not the standard.

By the time ACMA asked me to supply the five examples, i had already identified around 400 notices issued by Telstra that were either non compliant or have incorrect dates shown.

How come ACMA never found these?

A similar situation exists with critical impact statements.

When a provider charges consumers more than what is on their critical impact statements, why isn't this picked up in their auditing?

When the difference was raised with ACMA did they do anything? Of course not.

They refused to even check.

The ACCC didn't act either, on the advice of ACMA.

The TIO agreed there was overcharging but also did nothing despite determining that this overcharging would have occurred with every customer on that plan

PRINCIPLE 2 CONSUMER SAFEGUARDS ARE BEST DELIVERED THROUGH DIRECT REGULATION

Owned and enforced by the regulator, is the problem that still exists.

A consumer safeguard that meets consumer expectations is something we should already have and should be the minimum.

The key problem remains, that the regulator has refused to enforce existing standards and rules and no one has been prepared to do anything about it.

Unless this changes no matter what standards and rules exist, consumer expectations will never be met.

WHAT BARRIERS CURRENTLY EXIST THAT PREVENT PROVIDERS FROM ADDRESSING CONSUMER COMPLAINTS AT THE FIRST POINT OF CONTACT ?

There is nothing preventing providers from addressing consumer complaints at the first point of contact

Lack of competition, failure of the TIO and refusal to act and enforce are the problem.

Lack of competition, particularly in the voice landline arena has meant the providers could ignore complaints.

Lock in contracts also reduce action on complaints because you have to continue to pay or pay break fees to try and get away from poor service and poor customer service.

The policy of ‘ignore them and they will give up’ is working extremely well for the industry.

Providers know the TIO process is flawed in their favour.

Lodge a complaint and the TIO asks the provider for their side of the matter, it doesn't assess the complaint against the response.

In our case the provider gave a repair date that was incorrect knowing that since it was only a few weeks away the TIO would accept it and advise the consumer it would do nothing.

Unfortunately before sending their response to the TIO the provider (the author of the same letter) advised us of a much later planned repair date.

The TIO would not accept the information was wrong without considerable effort.

The repairs were completed five months later, not three weeks as they were told.

It is a significant barrier to the consumer rather than the provider that the TIO believes the providers who fund them over the consumer, as the latter would involve effort.

The collusion that occurs between the providers, TIO, ACMA in the full knowledge and support of the ACCC in complaint handling is also a barrier to the consumer.

A deal on ‘a working service' which in our case meant if you had no dial tone for a week and could not receive any calls, but messagebank transmitted the messages a week later when your line was fixed, was deemed to be a working service

Providers also know that ACMA and ACCC don’t monitor, regulate or act, so there again the barrier applies to the consumer rather than the provider.

HOW SHOULD RESPONSIBILITY FOR RESOLVING CONSUMER COMPLAINTS INVOLVING MULTIPLE PARTIES IN THE SUPPLY CHAIN BE ACHIEVED OR ENACTED.?

The consumer is the customer of their provider, not of anyone else.

If you are a westnet customer on NBN satellite and have an issue, it is westnet who have a contractual obligation with the customer, not NBNco.

Any compensation shall be paid by the customer's provider no one else.

The consumer has no claim against any other reseller or provider

The consumer has no right to contact the provider of the underlying service as they have no contractual obligation to the consumer.

The concept that other parties in the supply chain are the consumer's problem only exists because of the failure of the regulator, TIO and ACCC to do their jobs.

Besides, the reseller has its own contractual agreement with its suppliers which should negate the need for the consumer to have to go further along the supply chain.

The consumer is one customer who, as we all know, is easily ignored by the reseller, provider, TIO, ACMA and ACCC.

The prevalent attitude of your only a customer so what does it matter if you leave, is encouraged by the current failure to act.

The reseller however is far more significant to a provider both in revenue stream and legal clout, so they are more likely to act for their reseller than an individual consumer of a reseller.

What must be avoided is a situation whereby a monopoly is created and service standards are allowed to slip. This will be possible with NBNco being the sole provider nationally for many services (such as satellite) and for many consumers (such as fixed wireless when mobile coverage does not exist).

PROPOSAL 2 EXTERNAL DISPUTE RESOLUTION

I support the concept of the creation of an external dispute resolution body, but am extremely concerned if the outcome is the removal of the TIO for non complex matters.

If the proposal is to eliminate the TIO and remove all resolution systems other than complex ones, then this proposal is a backwards step, by about 50 years.

ISSUES FOR COMMENT

1 SHOULD THE CURRENT TIO ARRANGEMENTS BE TRANSFORMED TO AN INDEPENDENT EXTERNAL DISPUTE RESOLUTION BODY FOR HANDLING COMPLEX COMPLAINTS?

An independent external dispute resolution body should be set up to handle all complaints, not just those deemed to be complex.

Consumers should not be denied access to dispute resolution for no other reason than lack of will of the regulator.

The independent EDR body should, unlike the TIO, be actively and proactively be involved in assessing trends of issues, determining causes of problems, in order to reduce customer complaints, not just to the EDR but to providers.

The third issue for COMMENT effectively sums up the problems of the existing system and failure of the regulator and TIO. The legislation, regulations and codes are in place to ensure they exhaust all practical steps to directly resolve complaints

The fact that the industry has been allowed to get away with deliberately not trying to resolve matters in the full knowledge that the customer has limited options to switch, will get fed up trying to get the problem fixed and the collusion between the TIO, ACMA and ACCC that is heavily biased towards the industry, is easily fixed.

As to the process a customer should have to follow before lodging a complaint with the EDR, there should be some specified automatic criteria as well as some general criteria.

For example, customer service guarantee and fault repair timeframes would constitute an automatic criteria. If the fault repair timeframes is not met, a complaint timeframe for a response from their provider would be allowed and if this is not met a complaint can be lodged with the EDR.

A certain number of faults in a specific time period would also constitute grounds for referral, the national reliability framework section 3 would be a benchmark.

If a consumer comes to the EDR without following the providers procedure, rather than dismissing the complaint a process should exist where an assessment is made immediately as to whether the consumer is able to follow the procedure (e.g. due to literacy, language or disability) and if assistance can be provided to communicate with the provider, in the hope that this intervention may actually lead to a quicker resolution thereby reducing the overall time and cost input by the parties.

DATA COLLECTION.

The biggest challenge is accuracy of data.

If providers do not accurately record faults, restoration times and complaints, the data is useless.

Our experience was that despite being given fault reference numbers, the provider denied the faults were reported. Then faults were closed without repair to avoid msg payments.

There needs to be accurate reporting with the onus placed on the provider to prove faults were not made and faults are only closed when rectified, rather than the current system where all consumers are treated as liars.

Standardised requirements for all providers should exist, such as NRF3.

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