



CONSUMER SAFEGUARDS REVIEW:

PART A - REDRESS AND COMPLAINTS HANDLING

SUBMISSION BY VODAFONE HUTCHISON AUSTRALIA

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Introduction

Thank you for the opportunity to provide the views of Vodafone Hutchison Australia (**VHA**) in managing consumer redress and complaint handling.

VHA has contributed to and supports the joint industry association response of Communications Alliance and the Australian Mobile Telecommunications Association. In addition we would like to provide the following comments in response to the Department's consultation paper.

We know that customer service is important to Australians, and we are continually striving to do better for our customers. We are proud of our recent track record of being an industry leader in customer service, with the highest Net Promoter Score and lowest rate of complaints of the mobile network operators.

We have been making an extra effort to better understand our customers' experience to drive more improvements. This includes further reducing customers' need to contact us and resolving enquiries more efficiently. We are pleased our efforts have resulted in a further reduction in our complaints rate, which is now more than half that of the industry average.

In our experience, there can be many reasons for a consumer to take a complaint to the TIO and in some cases, some service providers have used the TIO as a routine complaints escalation process. Further, the ACMA and the TIO have constantly required service providers to direct consumers to the fact that there is an external dispute resolution process and, to some extent, consumers have been conditioned to expect a better outcome to a complaint should they take it directly to the TIO.

This has led to a situation where:

- consumers may find it difficult to access their service provider to raise a dispute (e.g. some low cost providers only have an online contact form and this may have a long turnaround time to get a response);
- providers may see the TIO as an easy way to manage complaints;
- providers may come to a resolution with a consumer, only to then have it come back via the TIO or;
- consumers go to the TIO in the first instance in the hope of a better outcome, rather than lodging a complaint with their service provider.

As noted in the consultation paper the industry 'co-regulatory' approach has long proven to be able to efficiently manage a wide range of matters. A key example of this is the work that the industry has undertaken to implement complaint handling reforms and to deal with the disruption caused by the rollout of the NBN.

The industry has been reviewing the Telecommunications Consumer Protections (**TCP**) Code (C628:2015) and this has provided opportunities for the ACMA and government to identify any changes it would like to see in the Code. It is worth noting that the new Complaints Handling Standard largely reflects the obligations in the TCP Code. Further, the most recent complaints data shows that complaints have reduced across all providers and this trend was occurring before the introduction of the new Complaints Handling Standard.

Current external dispute resolution scheme

VHA believes the TIO is an efficient and consistent way to identify escalated complaints in a fair manner across the industry. We support the complaints in context approach of industry measurement as it is the only fair way to analyse complaints.

While the consultation paper comments that many of the consumer complaints received by the TIO are referred back to the service provider, it should be noted that the service provider bears a cost for the TIO's involvement in these referrals. The ACMA and the TIO have helped drive the behaviour of some consumers going to the TIO in the first instance and this needs to change.

VHA recognises that while some disputes will require an external dispute body to assist in resolution, it should not be a matter of process that consumers are encouraged to immediately take a dispute to the TIO. The TIO should only take complaint cases where a service provider's in-house dispute resolution process has failed.

As evidenced by the improvements in our Net Promoter Score and the decline in our customer complaints, VHA has shown that a single minded focus on excellence in customer service can achieve positive consumer outcomes. Where a customer does not get the response they expect in relation to a resolution with our first line agents, we have a process of escalating these consumer complaints to an internal escalation team. We try, as far as we can, to address the consumers concerns and come to an amicable arrangement. In some cases this will not always be possible and may require the assistance of the TIO.

It is VHA's view that to improve the current dispute resolution process the TIO should not take complaints directly from a customer where the customer is unable to identify that they have discussed the matter with their service provider. Aside from the need to encourage consumers to resolve the complaint with their service provider there are two other aspects to this approach that must be considered.

Privacy and security

A person that represents themselves to the TIO may be attempting to access information about a customer for unlawful reasons. The TIO can never be sure that the person they are talking to is the customer, or an authorised representative of that customer. VHA has experience of fraudsters seeking various ways to ascertain information about customers and their service in order to commit a crime or to access personal information.

In some circumstances we have had to take specific action with some customers' accounts to add additional security over access to customers' information. We will refuse to give any person outside of VHA information about certain customer accounts without some specific security protocols being initiated to confirm that we talking directly to the customer. We have raised these security concerns with the TIO previously however they have been ignored. In today's world of cybercrime this is not a satisfactory approach and leaves customers at risk.

Social engineering

Some consumers, through social engineering, have an expectation of a better outcome should they take their complaint directly to the TIO. It is not uncommon for some websites to give advice on how to break a contract, how to get a new device, or an account credit. The TIO is seen to provide

a better outcome for a dispute with the result that providers may not be aware of the dispute until such time as it comes to them via the TIO. The service provider then has to bear the cost of the TIO in addition to the expected greater 'reward' being provided where the TIO acts as a consumer advocate, rather than an external dispute resolution body. Providers should not have to pay any fee for a consumer call to the TIO where that consumer has not contacted their provider in the first instance as this merely encourages bad behaviour.

A customer making a complaint to their provider must be provided with a Complaint Reference Number and the TIO should not accept any dispute without being able to quote the complaint reference number. The TIO should make clear that it will not act without the Complaint Reference Number. Further, the TIO should be a body that considers both the consumer complaint and the response provided by the service provider and assists both parties to come to an amicable solution within the obligations required by regulation. It is not the role of the TIO to develop its own rules, or to interpret regulation. If there is a dispute about the intent of an obligation, this should be referred to the ACMA and/or the courts to make a decision, not the TIO.

A number of changes are required to the current external dispute resolution scheme

1. Service providers must be required to provide customers with easy access to raise a complaint. It can be argued that the present obligation carried over from the TCP Code to the Complaints Handling Standard is still insufficient in allowing up to two working days to acknowledge a complaint received via email or through the provider's website.
2. The TIO and the ACMA should only encourage consumers to use the external dispute resolution scheme when a service provider's internal processes have been unable to address the consumer complaint.
3. The TIO needs service level agreements to take timelier action in providing feedback to consumers and providers on its decisions and where a case is closed it needs to be formally closed with the service provider.
4. The TIO needs to be more consultative with both the industry associations and service providers in developing agreed protocols for managing various complaint scenarios. For example, in the case that a consumer has taken an action that has caused the grievance there should be an agreed approach to resolution, rather than simply requiring the service provider to bear all costs for that consumer's actions, such as where providers receive large volumes of device complaints when a new device is launched.
5. The ACMA should be taking stronger enforcement action across the supply chain rather than focusing on just the large providers. While the Complaints Handling Standard puts obligations on providers to perform actions within defined timeframes to resolve complaints, it makes no allowance for additional time that may be required as a result of other parties (in particular, NBN Co.) in the supply chain. Also, while the Standard requires providers to identify relevant timeframes it has in relation to the complaint, there is no obligation to provide reasonable assistance within those timeframes as there are no service level agreements for the provision of reasonable assistance.

Proposals for reform

Proposal 1: Telecommunications Providers must have and maintain complaint handling policies which detail their processes and procedures for handling customer complaints in compliance with the governing rules.

Principle 1 - Industry should have responsibility for taking care of its customers

VHA supports the principle that complaints be required to be dealt with at the first point of contact.

Principle 2 - Consumer safeguards are best delivered through direct regulation

VHA does not support the view that consumer safeguards are best delivered through direct regulation. Too often direct regulatory arrangements have inflexible obligations that do not suit the dynamic nature of the telecommunications sector. New products, services and ways of doing business can be stifled by direct regulation. For example, international roaming direct regulation was introduced after industry had already started to change commercial arrangements and the obligations have subsequently restricted some new innovative options. Direct regulation is a blunt tool that can have serious side effects and the fact that the Complaints Handling Standard largely reflects the obligations in the TCP Code shows that little change is required.

Issues for comment:

1. *How can telecommunications service providers be encouraged to deal with and resolve their customer complaints without the need for recourse to external escalation?*

It is VHA's view that to improve the current external dispute resolution process the TIO should not take complaints directly from a customer where the customer is unable to identify that they have raised the matter with their service provider.

2. *What barriers currently exist that prevent providers from addressing consumer complaints at the first point of contact or through an internal escalated process?*

The industry is made up of service providers that greatly vary in size and capability. There is no such thing as a one size fits all approach. VHA has shown that a single minded focus on excellence in customer service can achieve positive consumer outcomes. Where a customer does not get the response they expect in relation to a resolution with our first line agents, we have a process of escalating these consumer complaints to an internal escalation team.

3. *How should responsibility for resolving consumer complaints involving multiple parties in the supply chain be achieved or enacted?*

As noted above, the ACMA should be taking stronger enforcement action across the supply chain rather than focusing on just the large providers. While the Complaints Handling Standard puts obligations on providers to perform actions within defined timeframes to resolve complaints, it makes no allowance for additional time that may be required as a result of other parties (in particular, NBN Co.) in the supply chain. Also, while the Standard requires providers to identify relevant timeframes it has in relation

to the complaint, there is no obligation on other parties to provide reasonable assistance within those timeframes as there are no service level agreements for the provision of reasonable assistance.

4. *Should there be additional rules in the ACMA's Complaints Handling Standard compelling providers to make every effort to resolve customer complaints before the consumer escalates the matter to an external dispute resolution body?*

While generally opposed to unnecessary regulation there may be a case for additional steps to be added to the Complaints Handling Standard that require internal dispute resolution. The TIO and the ACMA should only encourage consumers to use the external dispute resolution scheme when the service provider's internal processes have been unable to address the consumer complaint.

5. *What do consumers need to know about their provider's complaint handling policies and procedures?*

Most consumers are more concerned about outcomes and how to contact their service provider and have them respond in a timely manner. However, as required under the previous TCP Code and the new Complaints Handling Standard, consumers should be able to get easy access to the provider's complaints handling policies and procedures.

6. *When and how should consumers be made aware of a provider's complaint handling policies and procedures?*

As above, the TCP Code and the new Complaints Handling Standard requires that consumers should be able to get easy access to a provider's complaints handling policies and procedures. VHA's complaints handling policy is available on our website.

7. *How will providers ensure their own staff are trained in the complaint handling policies and procedures and will be supported by appropriate complaint handling systems?*

How a provider meets its obligations is a matter for the providers and this will vary according to its supply chain outlets, contact arrangements and the size of the business.

Proposal 2: An External Dispute Resolution body, independent of industry, should be established to deal with complex complaints that are unable to be resolved directly between customers and their providers. Consideration will need to be given to the appropriate governance arrangements to support the body, with its independence being a guiding principle.

Principle 3 - Consumers have an independent avenue for resolution and/or redress

VHA supports the industry association response on this matter. The TIO is fiercely independent and sufficiently empowered to resolve disputes.

Principle 4 - Governance and public accountability

VHA agrees with this principle in relation to the TIO.

Principle 5 - Appropriate institutional arrangements

VHA agrees with this principle. As noted above, TIO should not take the role of interpreting regulation, or developing its own views of regulation. If there are systemic complaints they should be referred to the ACMA.

Issues for comment;

- 1 *Should the current Telecommunications Industry Ombudsman (TIO) arrangements be transformed to an independent External Dispute Resolution (EDR) body for handling complex complaints?*
- 2 *In addition to resolving complex complaints, should the independent EDR body be proactively engaged in driving industry improvements, identifying systemic complaints and analysing root causes or recurring issues?*
- 3 *Should the charging structure for complaints lodged with the EDR body be structured to encourage providers to exhaust all practical steps to directly resolve the complaint with the consumer before referring to the EDR body? How can this be achieved?*
- 4 *What process should be followed before a consumer lodges a complaint with the EDR body?*
- 5 *What process should the EDR body follow in the event it receives a complaint from a consumer where the consumer has not followed the provider's complaint handling procedures?*
- 6 *What process should the EDR body follow in the event it receives a complaint from a consumer where the provider has not followed its own complaint handling procedures?*

VHA does not support the establishment of a new EDR body. With some modifications such as those ideas identified in the consultation paper, it is possible to improve complaint handling arrangements and the current external dispute resolution process without the need for a new EDR body.

These include:

- a change in the approach and culture within some providers and the TIO;
- consumers being required to have first raised a matter as a complaint with their service provider before escalation to the TIO;
- providers being required to have an internal dispute escalation process in place;
- consumers being required to provide a Complaint Reference Number to the TIO before the TIO accepts a case (in particular to address security concerns);
- having ongoing effective engagement and feedback mechanisms between all involved parties to identify areas for improvement; and
- further work being done to identify alternate approaches to dealing with those exceptional situations where a consumer is unable to contact their provider, such as when that provider has gone into insolvency. The TIO and the industry associations could develop appropriate exceptions and protocols to manage these situations.

Proposal 3: Responsibility for collection of data relating to industry performance and complaints should be transferred to the ACMA. The ACMA will publish reports detailing analysis of this data, as well as including complaints data in its annual communications report.

Principle 6 - Complaints data collection, analysis and reporting should drive improved outcomes

While supportive of this principle in general terms, VHA does not agree with the arrangements in the ACMA Record Keeping Rules. As commented previously, the ACMA will be collecting data from providers that is not equivalent. This will give a distortionary view of the different providers' arrangements. VHA supports the TIO contextualised complaints data as this is more comparable and therefore reflective of the provider's arrangements. Industry has added an obligation to the revised TCP Code and recommends that the ACMA seek to extend this arrangement beyond the limited number of providers captured as part of the revised TCP Code obligation.

Issues for comment:

- 1 *How often should the EDR body provide complaints data to the ACMA for analysis and reporting (e.g. monthly, quarterly)?*

VHA supports a quarterly approach to analysis and reporting as this can take into account variations that can arise as a result of factors outside of the control of providers, for example seasonal environmental factors (e.g. fire, flood, etc.) and technological impacts (e.g. upgrades in technology, new device launches, etc.).

- 2 *Are there any unforeseen issues or unintended consequences of the proposal for a centralised repository and reporting of industry complaint information?*

The key issue is the context of the data and the security arrangements around access. If data was accessed unlawfully and made public without context it could have an adverse effect on the reputation of both the government and service providers.

- 3 *Do the proposals in this paper address the major issues of concern with the current arrangements regarding complaints and complaints handling? If not, what additional measures could be included?*

Please refer to the response provided by the industry associations.

- 4 *What considerations should be taken into account in implementing the proposals outlined in this paper, including practical timeframes for implementation?*

If there are any technological or process changes that are required as a result of this review, industry will need sufficient time to implement the necessary changes.

- 5 *Are there any other issues that should be brought to the Government's attention?*

VHA believes the TIO should be retained as the external dispute resolution body, with some changes to how it manages complaints as discussed above. The use of an internal dispute resolution process by providers has shown to result in fewer TIO complaints. It is possible to achieve improved outcomes in complaint handling, but only if all parties are aligned in their approach.