

## Submission

30 August 2024

Telecommunications Industry Ombudsman  
[PublicConsultation@tio.com.au](mailto:PublicConsultation@tio.com.au)

### Re: Proposed amendments to Terms of Reference 2024

The Australian Communications Consumer Action Network (**ACCAN**) thanks the Telecommunications Industry Ombudsman (**TIO**) for the opportunity to comment on its Discussion Paper: Proposed amendments to Terms of Reference August 2024 (**the Discussion Paper**) and its revised Terms of Reference (**the revised ToR**).

ACCAN is the peak body that represents consumers on communications issues including telecommunications, broadband, and emerging new services. ACCAN provides a strong unified voice to industry and government as we work towards communications services that are trusted, inclusive and available for all.

ACCAN's submission has also been informed by feedback given by consumer and community organisations who regularly assist customers experiencing financial hardship with their telecommunications products and services, including Consumer Action Law Centre.

Please see ACCAN's responses to the questions in the Discussion Paper and revised ToR:

**Do the proposed changes successfully clarify the TIO's power to handle SIP [Statutory Infrastructure Provider] connection complaints following recent legislative changes? If not, what other ToR amendments should be made to achieve this purpose?**

ACCAN considers that the proposed changes to the ToR clarify the TIO's power to handle SIP connection complaints following the assent of the Telecommunications Legislation Amendment (Enhancing Consumer Safeguards and Other Measures) Bill 2023.

**Do the proposed changes support the TIO implementing recommendations 2,12 and 17 of the 2022 independent review of the TIO? If not, what other ToR amendments should be made to address these recommendations?**

### Recommendation 2

ACCAN supports the proposed changes to the revised ToR to address recommendation 2 of the 2022 TIO Independent review (**the Independent Review**). ACCAN would support the TIO providing additional clarity in the revised ToR with respect to the obligations of members under section 6.2.

ACCAN would support a direct reference to the legal obligations of members under the Telecommunications (Consumer Complaints Handling) Industry Standard 2018 with respect to the availability of their own complaints handling processes and requirements of members to make consumers aware of the TIO through these processes.

## Recommendation 12

ACCAN would support the TIO providing additional clarity on how it has altered the revised ToR to address recommendation 12 of the Independent Review, noting that this may be an internal process not referred to explicitly with the TIO's ToR.

## Recommendation 17

Recommendation 17 of the Independent Review states that:

*“The TIO should amend its Terms of Reference to make clear that it can investigate complaints about a carrier’s behaviour when a carrier wishes to access land under an agreement, or under the carrier’s statutory powers to inspect land, maintain facilities, or install low impact facilities.*

This recommendation suggests that the TIO should amend its Terms of Reference to make clear that it can investigate complaints about:

- A carrier’s behaviour when a carrier wishes to access land under an agreement.
- A carrier’s behaviour when a carrier wishes to access land under the carrier’s statutory powers to inspect land, maintain facilities, or install low impact facilities.

The TIO proposes to address this recommendation through amending section 2.3 of the revised ToR, which notes (changes in **bold**):

*We can handle complaints from occupiers, including about:*

*(a) property damage on an occupier’s land, including disputes over liability for costs associated with repairing, restoring, or replacing property;*

*(b) bill or debt claimed by a member against an occupier; and*

*(c) unsafe or non-compliant carrier infrastructure on the occupier’s land **(or proposed to be put on the occupier’s land), and***

***(d) non-compliance by a member with laws relating to land access activities, or the terms of a land access agreement with an occupier.***

ACCAN would support the TIO providing more clarity on its ability to handle complaints from occupiers about the carriers’ behaviour related to 2.3 (c) and (d). While related, a carrier’s proposal to put unsafe or non-compliant infrastructure on the occupier’s land is not encompassing of its *behaviour* and thus not entirely reflective of the Independent Review’s recommendation.

ACCAN would therefore support the revision of section 2.3 (c) and (d) such that the TIO makes clear it can investigate complaints about a carrier’s behaviour in alignment with recommendation 17 of the Independent Review. ACCAN considers that the framing of 2.3 (d) with respect to the term “non-compliance by a member” should be further clarified as it may be difficult for a complainant to ascertain non-compliance prior to a complaint being escalated to the TIO.

**Do the proposed changes adequately correct drafting issues in the current ToR?**

ACCAN considers that the proposed changes adequately correct drafting issues in the current ToR.

In addition, we particularly welcome the proposed amendments to the ToR to better allow the TIO to consider what is a 'reasonable' attempt by a consumer to contact a member about a complaint (and whether the member has had a reasonable opportunity to consider the matter), before the matter can be escalated to the TIO.

This change and further guidance by the TIO on this issue is necessary as consumer advocates regularly hear from consumer complainants, particularly vulnerable consumers, of the numerous barriers they constantly face to have their complaints heard or followed up on by their telco providers. These include unreasonably long wait times, difficulties in finding provider contact information, unhelpful and confusing online complaint tools and chatbots, delayed or no appropriate action by the provider, and the failure by providers to correctly classify or sufficiently record the details of complaints on their system.

We thank the TIO for the opportunity to comment on the Discussion Paper and the revised ToR. Should you wish to discuss any of the issues raised in this submission further, please do not hesitate to contact me at [con.gouskos@accan.org.au](mailto:con.gouskos@accan.org.au).

Yours sincerely,

Con Gouskos  
Policy Adviser

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***The Australian Communications Consumer Action Network (ACCAN) is Australia's peak communication consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers. ACCAN is committed to reconciliation that acknowledges Australia's past and values the unique culture and heritage of Aboriginal and Torres Strait Islander peoples. [Read our RAP.](#)***

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