

**Senate Standing Committee on Environment and Communications**  
**Answers to Senate Estimates Questions on Notice**  
**Budget Estimates Spill-over Hearing June 2017**  
**Communications Portfolio**  
**NBN Co Limited**

**Question No: 296**

**NBN Co Limited**

**Hansard Ref: Written, 27/06/2017**

**Topic: TIO Review**

**Senator Urquhart, Anne asked:**

Has NBN Co made a submission to the Independent Review of the TIO being undertaken by Cameron, Ralph and Khoury? If yes, please provide a copy of the submission.

**Answer:**

Yes, nbn has made a submission to the Independent Review of the TIO being undertaken by cameron.ralph.khoury (CRK). Please find attached a copy of nbn's submission.



30 June 2017

## Submission on the Telecommunications Industry Ombudsman Independent Review Issues Paper

**nbn** welcomes the opportunity to provide input for the independent review of the Telecommunications Industry Ombudsman Limited (**TIO**) being conducted in accordance with section 133A of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

Overall, **nbn** considers that the TIO is an effective alternative dispute resolution organisation that operates in accordance with the *Benchmarks for Industry Based Customer Dispute Resolution*. The TIO is successfully responding to significant technological and industry changes that have occurred in recent years. **nbn** values the engagement it has with the TIO and will continue to evolve and deepen this relationship, as the industry moves from the 'build', to the 'run', phase of the **nbn**<sup>TM</sup> network.

In this submission, we provide a high level summary of the progress that both **nbn** and the industry have made with the resolution of TIO complaints about services delivered over the **nbn**<sup>TM</sup> network, highlight key issues for **nbn**; and provide some general observations on the TIO's effectiveness. We look forward to continuing to work with the TIO to ensure that end user complaints in the telecommunications industry are handled appropriately and efficiently.

### **nbn's rollout and current state of TIO complaints**

**nbn** is a Government Business Enterprise established to design, build and operate Australia's new high-speed broadband network. **nbn** is well on its way to achieving its goal of connecting 8 million homes and businesses by 2020. As of 22 June 2017, **nbn** had declared 5,531,472 premises ready for service and 2,392,361 premises were activated on the **nbn**<sup>TM</sup> network.<sup>1</sup> Approximately 30,000 additional households and business are currently being connected to services over the **nbn**<sup>TM</sup> network every week<sup>2</sup>. At the end of FY 2016, 70% of the rollout was completed in non-metro and regional Australia<sup>3</sup>.

In spite of these structural and end user changes in the telecommunications industry, the total number of new complaints to the TIO fell by 43% between 2011 and 2016.<sup>4</sup> The TIO's latest Six Monthly Update (for the period 1 July 2016 to 31 December 2016) also shows progress being made by **nbn** and the industry in reducing the number of complaints the TIO receives, with a 30% reduction in new complaints about services delivered over the **nbn**<sup>TM</sup> network from the previous half-year figures (when adjusted for the total number of active premises).<sup>5</sup>

Further, there has been an improvement in the rate of complaints concerning connection delays, down from 9 complaints for every 1,000 new premises activated on the **nbn**<sup>TM</sup> network in H2 FY16 to less than 6 complaints for every 1,000 new premises activated during H1 FY17. There has also been an improvement in the rate of

<sup>1</sup> See **nbn's** [Weekly Progress Report](#) as of 22 June 2017.

<sup>2</sup> [TIO Report shows downward trends in nbn complaints figures](#), **nbn** media release, 11 May 2017.

<sup>3</sup> **nbn Corporate Plan 2017**, released August 2016, p.9.

<sup>4</sup> TIO Submission to the Joint Standing Committee Inquiry into the National Broadband Network, 1 May 2017, p.5.

<sup>5</sup> [TIO Report shows downward trends in nbn complaints figures](#), **nbn** media release, 11 May 2017.



complaints concerning faults to 2.7 complaints for every 1,000 premises activated on the **nbn**<sup>TM</sup> network in H1 FY17 (down from 3.5 complaints per 1,000 activated premises in H2 FY16).

While **nbn** is pleased that the rate of growth in the number of active services on the **nbn**<sup>TM</sup> network is greater than the rate of growth in complaints about services delivered over the **nbn**<sup>TM</sup> network<sup>6</sup>, we are continuing to work with industry to further improve end users' understanding of network performance and what may impact their in-home broadband experience.

Given the nature and scale of change that has occurred in the communications sector over the last 10 years, and that complaint numbers per active **nbn** services continue to trend downwards, **nbn** considers that the TIO generally operates an effective alternative dispute resolution service that facilitates the resolution of disputes between consumers and telecommunications providers in a timely manner.

### Strengthening the effectiveness of the TIO

Whilst we consider the TIO to be, overall, an effective body we have identified a number of areas where we consider that this effectiveness could be strengthened. We have detailed these and some other comments below.

#### 1. Future proofing the TIO's Terms of Reference and associated documentation to ensure there is clarity about the distinction between wholesalers and retailers in the telecommunications landscape.

The TIO's Terms of Reference (**TOR**) currently provide an effective authorising environment for the TIO in handling the wide range of complaints that it receives. However, **nbn** considers that the authorising framework (including the TOR) could be strengthened to:

- explicitly state that it is not the TIO's role to supervise or monitor the performance of the **nbn**<sup>TM</sup> network rollout;<sup>7</sup> and
- clarify the important distinction between the role of wholesaler infrastructure providers (such as **nbn**) and retailers in resolving complaints.

These changes will help to future proof the TIO's framework for handling complaints beyond 2020, when the **nbn**<sup>TM</sup> network rollout phase will be mostly complete and the majority of Australians will have migrated to the **nbn**<sup>TM</sup> network, or be in the end stages of migrating to the **nbn**<sup>TM</sup> network. After this phase is complete, **nbn** considers that the TOR will need to adequately reflect the differing roles of the wholesale and retail service providers (RSPs) in resolving TIO complaints.

Currently, the TIO's *Classification and Escalation Procedures* state that the TIO "generally register[s] an Enquiry or Complaint in the name of the provider who is billing the consumer for the services",<sup>8</sup> other than where a matter concerns a carrier undertaking land access activity or in "exceptional circumstances".<sup>9</sup> The Ombudsman has recently reiterated the TIO's focus on "resolving complaints between consumers and their retail service providers, [as that] is where the contractual relationship is"<sup>10</sup>

<sup>6</sup> 2015-2016 TIO Annual Report, released 17 November 2016, p.15.

<sup>7</sup> We note that this is a view supported by the Telecommunications Industry Ombudsman, Ms Judi Jones. Commonwealth of Australia. Senate. (2017). *Joint Standing Committee on the National Broadband Network (Official Hansard)*, 24 March 2017, p.6; TIO submission to the Joint Standing Committee Inquiry into the National Broadband Network, 1 May 2017, p.1.

<sup>8</sup> See paragraph 1.2 of the TIO's [Complaints Handling Procedures: Escalation and Classification](#).

<sup>9</sup> See paragraph 1.4 of the TIO's [Complaints Handling Procedures: Escalation and Classification](#).

<sup>10</sup> Commonwealth of Australia. Senate. (2017). *Joint Standing Committee on the National Broadband Network (Official Hansard)*, 24 March 2017, p.3.



and that the TIO does “not do business-to-business complaints”.<sup>11</sup> However, there is scope to clarify any residual confusion about the roles of retailers and wholesalers in resolving complaints.

**nbn** considers that the TOR and associated authorising and policy documents could be improved so as to provide greater clarity about the different roles of retail and wholesale scheme members. Improvements might, for example, recognise that **nbn** has comprehensive mechanisms in its Wholesale Broadband Agreement to resolve issues experienced by its RSP customers and end users.

## 2. Key word data collection

As of 1 July 2017, the TIO proposes to implement a new data collection and reporting model for service types and keywords, which involves reducing from 285 to 74 keyword descriptors. Overall, **nbn** considers this to be a sensible initiative to reduce the complexity around key word data collection and also reduce the burden on TIO dispute resolution staff in the recording of complaints. **nbn** would like to work with the TIO in finalising the new approach to key word data collection to ensure that the new reporting model is technically sound and adequately and appropriately categorises complaints.

## 3. Clarity in recording information about TIO complaints related to services provided over the nbn™ network

Further to the key words data collection issue identified above, **nbn** believes that more could be done to accurately record complaints:

- about a service provided over the **nbn**™ network;
- within **nbn**'s responsibility to resolve (e.g. a land access issue).

This information is important for an end user's understanding of how **nbn** works and the role played by each party in the supply chain in providing services over the **nbn** to end users. Additionally, increasing end users' understanding is also likely to increase the timeliness and effectiveness of the TIO's assistance in the resolution of these complaints.

We will continue to engage with the TIO to seek to ensure that the information recorded in respect of a new complaint appropriately categorises the nature of the services being provided over the **nbn**™ network with a view to better identification of **nbn**'s areas of responsibility and those of an RSP to resolve.

## 4. Stakeholder engagement and multi-party conciliation

**nbn** acknowledges the TIO's commitment to fostering and maintaining a positive working relationship with all telecommunication providers. **nbn** understands that the TIO has set up a specialist **nbn** team of dispute resolution staff<sup>12</sup> and is continuing with initiatives designed to resolve end user complaints in contexts where both a wholesaler and retailer are involved. **nbn** has also recently engaged with industry in workshops (including 12 RSPs and 3 **nbn** service delivery partners) to assist in further enhancing the resolution of issues in this context. **nbn** supports, in principle, the TIO's proposal to facilitate meetings and discussions with RSPs to highlight issues and to exchange information,<sup>13</sup> however **nbn** notes that a

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<sup>11</sup> Commonwealth of Australia. Senate. (2017). *Joint Standing Committee on the National Broadband Network (Official Hansard)*, 24 March 2017, p.26.

<sup>12</sup> 2013-2014 TIO Annual Report, released 22 October 2014, p.33.

<sup>13</sup> TIO submission to the Joint Standing Committee Inquiry into the National Broadband Network, 1 May 2017, p.12.



significant amount of work is already undertaken in this regard in existing industry fora codifying, or providing guidelines for, relevant practices,<sup>14</sup> and that RSPs are primarily responsible for managing communication channels and dispute resolution with end users.

Overall, we consider that the TIO is an effective dispute resolution body dealing with a very complex industry which is in the midst of change. **nbn** is happy to continue to provide briefings to the TIO on issues which the TIO may consider to be beneficial. This may, for example, include updates on **nbn** migration arrangements, **nbn**'s processes for new connections and/or how **nbn** manages active connections (including any fault or service related issues). Briefings of this nature may further assist in enhancing the timeliness and effectiveness of the resolution of issues arising in relation to services provided over the **nbn**<sup>TM</sup> network.

We look forward to discussing the issues outlined in this submission further.

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<sup>14</sup> See, for example, the working groups and committees outlined in the *Communications Alliance's submission to the Joint Standing Committee on the National Broadband Network*, 31 March 2017.