



19 June 2024

Ministry of Business Innovation and Employment

By email to: communicationspolicy@mbie.govt.nz

Tēnā koe

Response to Discussion document: Enhancing Telecommunications Regulatory and Funding Frameworks

Thank you for the opportunity to respond to the Discussion Document on Enhancing Telecommunications Regulatory and Funding Frameworks (the Discussion Document).

This submission response to the section on consumer access to dispute resolution services.

Contact Energy is one of the fastest growing telecommunications brands in New Zealand. We began offering fixed line telecommunications services in 2017 as an add-on to our core electricity service. Last year we expanded this to our service to also include mobile as a mobile virtual network operator (MVNO).

Our philosophy in telecommunications is to keep our offers simple, and deliver good quality service to our customers. We offer our electricity customers fibre at two speeds – fibre max, and fast fibre,¹ as well as options for fixed wireless. These services are offered on a month-by-month basis with no contracts or complicated extras.

Our focus on simplicity and customer service extends to our approach to dispute resolution as well. We have chosen to use Utilities Dispute Limited (UDL) as our dispute resolution provider across all services we offer, electricity, gas, broadband and mobile. Details of this scheme can be found on their website, including the Scheme rules, the Customer Service Code we have signed up to, and the Governance document.² We consider that having a single provider improves clarity for customers, and improves the speed we can resolve complaints by avoiding any jurisdictional confusion.

We consider that UDL provides an equal or superior dispute resolution service than the Telecommunications Dispute Resolution Scheme (TDRS). Even following the recent changes to the TDRS there are a number of areas where UDL provides a greater level of service to customers

- TDR has a loss limit of \$30,000, whereas UDL has a loss limit of \$50,000
- TDR will not consider indirect loss, including lost profit, UDL has no such exclusion
- TDR will only consider complaints from up to three years ago, UDL will consider complaints that are up to six years old.

We also note that UDL is the mandated supplier of dispute resolution services for the energy sector under the 'Energy Complaints Scheme'. This includes a comprehensive review of their performance once every 5 years. The latest review was completed in 2023 and found that it is "operating effectively as an independent scheme to resolve consumer complaints".³ While this review relates to a different scheme, it remains relevant as we have ensured that

¹ 300/100 in most regions, and 100/20 in regions covered by Northpower's network

² <https://www.udl.co.nz/en/our-publications-and-schemes/providers/telecommunications-complaints-scheme/>

³ <https://www.udl.co.nz/assets/Publications-and-schemes/Consultations/Independent-Review-of-the-UDL-Energy-Complaints-Scheme.pdf>

the terms of UDL's Telecommunications Complaints Scheme, reflect the terms of the 'Energy Complaints Scheme'.

We remain committed to the long-term provision of high-quality telecommunications dispute resolution services through UDL. However, ongoing regulatory uncertainty over whether we will continue to have a choice to offer our customers a higher level of service, and a simple one-stop shop for dispute resolution means that we continue to run the scheme as a trial. We hope this uncertainty can be resolved soon.

Dispute resolution for Commission Codes

We note that UDL does not have jurisdiction to consider disputes regarding Commission Codes, such as the 111 contact Code, and the Copper Withdrawal Code. If one of our customers has a complaint regarding one of these codes they are able to access the TDRS, and we will cooperate with the process and any decisions. We note that no such disputes have yet been raised by any of our customers. In the future we hope that these codes can be amended to allow dispute resolution by alternative providers as well as TDR.

Equally we note that UDL is the provider of dispute resolution services for the Broadband Shared Property Access Disputes Scheme. In that regard there will be some cases where customers of any telecommunications provider have to utilise more than one dispute resolution provider.

Feedback on the dispute resolution options considered in the discussion document

We consider that it is important for all customers of telecommunications services to have access to dispute resolution services. However, we do not consider that it is in customer's interests for Government to mandate a particular dispute resolution provider.

We do not consider that the problem definition should focus on membership of an *industry* dispute resolution scheme, as this unnecessarily reduces competitive choice and increases complexity for multi-product customers. We consider that MBIE should redefine the problem as whether all telecommunications providers are members of a *reputable* dispute resolution scheme.

Any options to address this problem definition should be both proportional to the size of the problem, and well targeted.

In this case it appears that only a small number of largely regionally focussed telecommunications providers do not offer access to a reputable dispute resolution provider. This suggests that a major intervention such as mandates is unjustified for the cost and inefficiencies it imposes on government, industry and ultimately consumers.

A well targeted intervention will also focus on the underlying cause of the problem. We note that the Discussion Paper emphasises that its primary concern is consumer awareness "Consumers may not be aware that they have access to free and impartial dispute resolution services". We note that no evidence has been presented on how prevalent this problem is, or what impact this has on end customers.

We propose that an information disclosure regime would be a more proportional and better targeted option. This could be similar to the information currently on the Commerce Commission website on members of TDRS.⁴ However, this notice is currently misleading as it does not identify other dispute resolution services offered.

⁴ <https://comcom.govt.nz/regulated-industries/telecommunications/telecommunications-for-consumers/what-to-do-when-you-have-a-dispute-with-your-broadband-or-mobile-provider>

If MBIE chooses to pursue the option of making membership of an *industry* dispute resolution scheme mandatory, then it must also improve the process for a dispute resolution provider being classified as an 'industry' scheme. Currently s232 of the Telecommunications Act 2001 defines an industry dispute resolution scheme as below.

industry dispute resolution scheme—

- (a) means—
 - (i) the Telecommunications Dispute Resolution scheme established by the Forum; and
 - (ii) any other dispute resolution scheme that has been set up by the telecommunications industry and deals with consumer complaints; but
- (b) excludes a dispute resolution scheme as defined in [clause 2](#) of Schedule 3C

'Telecommunications industry' is not further defined, but is usually inferred to be the Telecommunications Carriers Forum. This body has set up the TDRS and up until recently administered it. We do not consider them to be sufficiently independent to make decisions on what a *reputable* dispute resolution scheme is.

Please contact me at brett.woods@contactenergy.co.nz if you wish to discuss further.

Ngā Mihi

A handwritten signature in blue ink, appearing to read 'Brett Woods', with a stylized flourish at the end.

Brett Woods
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Contact Energy.