Telecommunications Industry Ombudsman

Consultation Paper

Targeted review of Non-Financial Loss limits

August 2026

1 Introduction

The Telecommunications Industry Ombudsman (TIO) is undertaking a targeted review of the non-privacy non-financial loss (NFL) compensation limit established under the Terms of Reference.

The purpose of the review is to determine whether the current NFL compensation framework remains fit for purpose, having regard to:

- the objectives of the TIO scheme
- contemporary community expectations
- the experience of consumers and TIO members
- developments in the telecommunications environment
- comparable external dispute resolution schemes
- the effective and efficient operation of the TIO.

This consultation paper seeks stakeholder views on whether the current settings continue to achieve fair, reasonable and proportionate outcomes, and if not, what changes may be warranted.

The review is focused solely on the current non-privacy NFL compensation limit of $1,500. It does not consider privacy-related NFL compensation arrangements or broader questions regarding the TIO's jurisdiction, governance or funding model.

2 Background and Issues Statement

Current Framework

The Terms of Reference[1] allow the TIO to recommend or require compensation for non-financial loss where a provider's action or inaction has caused harm and compensation is required to restore fairness. NFL compensation is intended to be remedial rather than punitive and may compensate for matters such as unusual inconvenience, stress, time spent resolving a complaint, interference with peace of mind or injury to feelings.

The Terms of Reference currently establish two NFL compensation limits:

- Up to $100,000 for privacy-related NFL claims; and
- Up to $1,500 for all other NFL claims.

[1] Terms of Reference - TIO

These settings were introduced as part of the modernised Terms of Reference that commenced on 1 January 2022.

Why Review the Limit?

The TIO Board has identified several factors that justify consideration of whether the current limit remains appropriately calibrated.

First, consumer advocates and other stakeholders have questioned whether the current limit adequately recognises the level of harm that may be experienced by consumers where telecommunications services fail. Telecommunications services have become increasingly essential for participation in modern society, including access to employment, health care, education, financial services and emergency assistance.

Second, recent remediation programs required under enforceable undertakings have highlighted circumstances in which affected consumers received compensation outcomes substantially higher than the standard NFL limit. While those arrangements were exceptional, they have prompted discussion about whether the existing framework appropriately reflects contemporary expectations regarding compensation for non-financial harm.

Third, preliminary analysis suggests that the current limit may influence complaint behaviour and settlement dynamics, even where matters are resolved through conciliation rather than as a result of a decision being issued. Stakeholders have raised questions regarding whether the current limit affects consumer expectations, providers' settlement positions, or the ability of the TIO to achieve fair outcomes in some circumstances.

At the same time, available evidence does not demonstrate that the current cap is routinely constraining outcomes. Any change to the existing framework may carry unintended consequences, including impacts on dispute resolution behaviour, complaint incentives, scheme costs and operational effectiveness. Accordingly, the review is not based on an assumption that the limit should increase. Rather, it seeks to determine whether the current framework remains appropriate and proportionate.

Key Issue

The central question for this review is:

Does the current $1,500 non-privacy NFL compensation limit continue to support fair, reasonable, proportionate and efficient dispute resolution outcomes, or would alternative settings better achieve the objectives of the TIO scheme?

3 Consultation Questions

The following questions are posed for the purposes of eliciting stakeholder feedback. These questions are not intended to constrain stakeholder responses.

Submissions will be published on the TIO website unless marked confidential. Stakeholders can also request that certain parts of their submission be redacted if it contains confidential information.

Scheme objectives and principle

1. What principles should guide the TIO's approach to compensating non-financial loss?
2. Does the current NFL framework appropriately balance fairness, proportionality and consistency?
3. Are there circumstances where the current framework does not adequately recognise consumer harm?

Adequacy of the current limit

4. Is the current $1,500 non-privacy NFL limit appropriate?
5. If not, what evidence supports an alternative limit?
6. What factors should be considered in determining an appropriate compensation limit?
7. Should any future limit be fixed, indexed, periodically reviewed, or adjusted through another mechanism?

Consumer outcomes

8. Does the current limit adequately recognise non-financial harm experienced by consumers?
9. Are there particular categories of complaints where the current limit appears insufficient?
10. Are there particular categories of complaints where the current limit appears excessive?
11. Are there circumstances where consumers experience harm that is not currently well recognised within the NFL framework?

Impact on dispute resolution

12. Does the current limit influence complaint behaviour, settlement discussions or expectations through the TIO process?

13. Would a higher or lower limit affect the willingness of parties to resolve complaints through conciliation?

14. What unintended consequences might arise if the limit were changed?

Benchmarking and community expectations

15. What lessons can be drawn from comparable Australian or international dispute resolution schemes?

16. How should contemporary community expectations influence NFL compensation settings?

17. Have community expectations regarding non-financial harm changed since the current limit was established?

Operational and system implications

18. What impacts might different compensation settings have on:

a. consumers

b. telecommunications providers

c. complaint resolution processes

d. scheme administration?

19. Are there alternative approaches, other than changing the limit itself, that could improve outcomes?

20. What implementation considerations should be taken into account if changes were made?

Future framework

21. What framework would best ensure that NFL compensation settings remain appropriate over time?

4 Proposed Analytical Framework

The TIO proposes to assess stakeholder submissions and evidence against six criteria.

Fairness and Consumer Outcomes

1. Does the current framework deliver outcomes that are fair, reasonable and proportionate having regard to the nature of the harm experienced?

Key considerations:

- severity of harm
- consistency of outcomes
- access to redress
- recognition of contemporary consumer experience.

Alignment with scheme purpose

2. Does the framework support the objectives of the TIO scheme?

Key considerations:

- remedial rather than punitive compensation
- restoration of fairness
- accessibility and informality
- confidence in dispute resolution outcomes.

Evidence from TIO operations

3. What does TIO experience indicate about operation of the current limit?

Key considerations:

- complaint volumes and trends
- cases at or near the cap
- settlement outcomes
- decision-making experience
- evidence that the cap affects outcomes or behaviour.

External benchmarking

4. How does the TIO framework compare with other comparable schemes?

Key considerations:

- compensation principles
- compensable harms
- award levels
- governance arrangements
- dispute resolution outcomes.

System and market impacts

5. What broader impacts could result from any change?

Key considerations:

- complaint incentives
- settlement behaviour
- provider conduct
- scheme costs
- efficiency and timeliness.

Practicality and sustainability

6. Would alternative arrangements be capable of effective implementation?

Key considerations:

- operational complexity
- governance requirements
- consistency of application
- stakeholder understanding
- long-term sustainability.

5 Assessment Matrix

The review will consider potential options against the following questions:

Criterion	Key Question
Fairness	Does the option improve consumer outcomes and recognition of harm?
Proportionality	Is compensation aligned with the nature and extent of harm?
Evidence	Is there objective evidence supporting the option?
Community expectations	Does the option reflect contemporary expectations?
Operational impact	Can the option be administered consistently and efficiently?
Scheme outcomes	Does the option support confidence in the TIO scheme?
Unintended consequences	What risks or distortions could arise?

Potential Outcome Pathways

The review will not assume any preferred outcome. Possible conclusions may include:

- retaining the existing limit
- retaining the limit with enhanced guidance or governance arrangements
- adjusting the limit
- introducing a different structure for NFL compensation
- identifying other improvements that do not involve changing the cap itself.

6 Appendix | Case examples

Financial Hardship and a Restricted Service

Issue

This consumer had a limited income, and their mobile service was the only phone and internet connection for their whole family.

They were in financial hardship and accumulated a debt of $114 for the mobile service. A charity offered to pay for the mobile service and the consumer approached the Telco who could not provide the charity a way to pay the debt on the consumer's behalf.

The consumer asked for a financial hardship payment arrangement and they agreed to pay $25 per month; however, when they went to pay the account, it would only let them pay the entire account balance which they could not afford.

The service was suspended without notice and the consumer spent the day outside the library, using its Wi-Fi to try and reconnect the service. The consumer also needed to speak to Centrelink and had to do so from a pay phone.

The Telco would not reinstate the service saying it could not approve the financial hardship payment arrangement.

The Investigation

The investigation found the Telco did not communicate with the consumer appropriately about the hardship arrangement, and did not explain what this arrangement should look like. The investigation also found that the Telco did not notify the consumer that it intended to suspend the mobile service.

The Telco eventually reinstated the mobile service so they could port to another provider and waived the amount that was owing on the account.

The Outcome

The TIO found the Telco had not met its obligations under the TCP Code and that this caused the consumer significant inconvenience by, removing the only form of telecommunications the family had, the need for the family to travel to access WiFi to contact the Telco, the need for them to engage with Centrelink, and the time and effort them took to get the service reinstated.

The TIO awarded the consumer $1,000 in compensation for the impact the Telco's actions had on them.

Disconnection of an internet service

The Issue

This consumer's service was disconnected without notice. The consumer sought compensation for the impact this disconnection had on them.

The Telco said the service was disconnected because it received a transfer request. It reconnected the internet and provided the consumer an $84.22 credit.

The Investigation

The investigation found that the consumer's service was disconnected for five days before it was reconnected after the Telco transferred the service back.

The Outcome

The TIO found the Telco's offer was reasonable to cover the period of time the service was disconnected and to address the inconvenience the consumer suffered over the five days the service was disconnected.

A faulty internet service

The Issue

The consumer's internet service was faulty for one month. He wanted compensation equal to 12 months' access fees for the impact this fault had on him.

The provider reported the fault to its wholesale provider, replaced equipment and fixed the fault. The provider offered to compensate the customer two months' access fees.

The Investigation

The investigation found that the provider responded appropriately to the fault and escalated as needed.

The investigation also found the consumer could still use the service, even though it was faulty.

The Outcome

The TIO found the provider's offer was reasonable to cover the period of time the service was faulty and to address the inconvenience the consumer suffered.

A delayed connection

The Issue

The consumer applied to connect a service at a new home. The provider said work needed to be completed before it could connect the service. The consumer completed the work but the connection was delayed for over six weeks.

The provider said it was not responsible for the delay because the consumer needed to complete work in their premises to enable the connection.

During the connection delay the consumer could not work from home, their children could not do homework, and they had to travel to a library to complete basic tasks. The consumer did not have decent mobile coverage in their new home.

The Investigation

The investigation found that the consumer completed the work required within three days of the provider informing them.

The investigation found the connection was delayed because the provider did not update information so the consumer could not connect a service.

The investigation also looked at how the provider engaged with the consumer and responded to their contacts.

The Outcome

The TIO found the provider was responsible for the delay once the consumer had completed the work needed in their home. The TIO found the provider did not respond to emails the consumer sent and did not answer voicemails.

The TIO found the consumer had made concerted efforts to speed up the connection but the provider did not communicate with them or provide updates when necessary.

The TIO awarded the consumer $600 compensation for the stress, inconvenience and effort they went through to connect a service, beyond what would be considered reasonable.