Telecommunications Industry Ombudsman

Factsheet: Compensation for financial loss

The Telecommunication Industry Ombudsman can consider a claim for financial loss caused by a telco breaching an obligation it owes you.

We can direct a telco to pay you up to $100,000 in compensation. If we estimate the value of the claim is likely to exceed $100,000, we can decide not to handle the complaint because a court or tribunal is more appropriate for the claim.

If you want to make a claim for financial loss you should be able to show us the loss with supporting information.

When will we consider a claim for financial loss?

We will consider a claim for financial loss caused by a telcos breach of an obligation under a contract, law or industry code. This includes **out of pocket expenses** and **lost profit**.

Examples include:

- cost of repairing property damaged by a telco
- lost business profit caused by faulty services
- lost business caused by loss of an email account
- cost of having to pay for alternate services when a telco doesn't supply agreed services.

We do not consider claims for:

- time spent and costs of making a complaint to the Telecommunication Industry Ombudsman
- loss of business reputation
- compensation to punish or penalise a telco.

In limited circumstances, we may consider a claim for the costs of independent expert assistance to prepare a claim but these costs are generally not claimable.

Who can make a claim?

We consider claims for loss from consumers and occupiers. This includes account holders, purchases or end users of telecommunications services or equipment, and owners and occupiers of land.

Telecommunications Industry Ombudsman Ltd, PO Box 276, Collins St West, VIC 8007. **ABN** 46 057 634 787
Freecall 1800 062 058 **Freefax** 1800 630 614 **National Relay Service** 1300 555 727 **Translating & Interpreting Service** 131 450
Email tio@tio.com.au **Web** tio.com.au Calls to the above numbers on mobile phones may incur charges.

How we assess claims

We assess claims by considering:

- Did the telco breach an obligation it owed you?
- Did the breach cause loss?
- Is that telco liable for the loss?
- What did you do to mitigate loss?
- Was the loss suffered by a third party?
- What should the telco pay you in compensation and out of pocket expenses?

Out of pocket expenses

If you are claiming out of pocket expenses, you should be able to provide receipts for these expenses and explain why you had to spend the amount you are claiming.

Loss of income

If you are claiming loss of personal income (such as missing a shift at work), you will need to give us information to show you would have earned the income if the telco had not breached its obligation to you. This might include a letter from your employer and pay slips to show what you are usually paid.

Loss of business

If you are making a claim for business loss, you should be able to give us documents to support your claim and show the loss. This can be a time-consuming process, but it is important you gather enough information to support your claim.

Information we typically consider includes:

- profit and loss statements prepared by an accountant covering the period that breach occurred, surrounding months, and comparative periods from the previous two years
- details and information to show how your business makes its income and how the breach impacted this income
- details of the steps you took to minimise the loss.

If there is an ongoing fault affecting your ability to operate your business, you should keep records about how it affects you. For example:

- notes about your reporting the fault to your telco
- emails from customers or business partners about their difficulty contacting you
- diary notes about the issues as they arise.

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Minimising ongoing loss

You should take steps to mitigate or minimise the impact of any telecommunications outage.

When we investigate a complaint about an unresolved claim for compensation, we will consider if you took reasonable steps to protect your interests and minimise your potential losses.

Taking steps to mitigate your business loss is a matter for you. Typically, we would expect a telco to cover your reasonable costs of mitigating loss. If you do not take reasonable steps to mitigate your loss, we may limit any amount of compensation we award.

A telco has an obligation to repair faults once it is made aware, but in most cases they do not have an obligation in regards to business loss to offer interim services.

The following table gives some examples for reducing business loss.

Affected service	Steps you could take to mitigate loss
Landline	Landline number redirection to a mobile service Updating mobile contact number where possible, such as on Google, Facebook, and newsletters
Internet	Using mobile data Purchasing a prepaid wireless dongle
Email	Accessing emails remotely
EFTPOS	Obtaining a wireless EFTPOS machine or mobile payment device
Landline	Contacting similar or competing businesses and asking they pass on mobile service number to customers calling for them
Landline	Calling relevant suppliers or providing mobile number
General	Contacting telco

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Making a claim

If we decide we can investigate your claim, we will ask you to give us supporting information. Typically, we expect you provide this within two to four weeks so we can assess it and finalise your complaint quickly.

If you cannot give us information to show the loss, your claim is unlikely to succeed.

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