

Application for exemption from requirement to join the Telecommunications Industry Ombudsman (TIO) scheme



For the purposes of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (the TCPSS Act)

Instructions for completion

Print clearly. Illegible, unclear or incomplete application forms will not be accepted. The ACMA may ask applicants to supply additional written information if necessary. The ACMA will not consider an application until it has adequate information to properly assess the application.

It is a criminal offence to make a statement (whether orally, in a document or in any other way), to give information or produce a document to a Commonwealth entity such as the ACMA, knowing that the statement, information or document is false or misleading or omits any matter or thing, without which the statement, information or document is misleading. Penalties are severe and include imprisonment.

Application requirements

A carrier or eligible carriage service provider (eligible CSP) applying for an exemption from the requirement to join the TIO scheme must complete this form.

The application should be lodged on behalf of the organisation by a person who is authorised to make the application on behalf of the organisation they represent.

The completed form should be forwarded to:

Telecommunications Data
Australian Communications and Media Authority
PO Box 13112 Law Courts
Melbourne VIC 8010

or by email to: info@acma.gov.au

You will be advised of the outcome of this application.

Details related to granted exemptions must be published on the ACMA's website.

Enquiries about an exemption or the application form may be directed to:

Telecommunications Data
Australian Communications and Media Authority
Tel: 1300 850 115
Email: info@acma.gov.au

Applicant's details

Organisation name (IF APPLICABLE)

Trading name(s) (IF APPLICABLE)

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Postal address

POSTCODE

Registered office or residential address (AS APPLICABLE)

POSTCODE

ACN (IF APPLICABLE)

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Principal contact

SURNAME
GIVEN NAMES
POSITION (e.g. Director/Company Secretary)

Contact details

WORK ()
MOBILE
FAX ()
EMAIL ADDRESS

Categories (TICK RELEVANT CATEGORY)

An applicant must indicate whether it is:

- A – a carrier (i.e. holder of a carrier licence); or
- B – an eligible CSP, being a CSP who supplies any of (i)-(iii):
 - (i) a standard telephone service, where any of the customers are residential customers or small business customers;
 - (ii) a public mobile telecommunications service;
 - (iii) a carriage service that enables end-users to access the internet; or
- C – a carriage service intermediary who arranges for the supply of a service referred to in (i), (ii) or (iii) above; or
- D – a CSP who has been given a written notice by the ACMA under subsection 130(1) of the TCPSS Act to enter into the TIO scheme under subsection 128(1) of the TCPSS Act or under subsection 102(2) of the *Telecommunications Act 1997* ('Telco Act'); or
- E – a member of a specified class of CSPs that the ACMA has determined must enter the TIO scheme, under section 131 of the TCPSS Act.

The TIO scheme

Subsection 128(1) of the TCPSS Act states that 'each carrier and each eligible carriage service provider must, in association with other carriers and other eligible carriage service providers, enter into a scheme providing for a Telecommunications Industry Ombudsman.'

For the purposes of the Telco Act and the TCPSS Act, a "carrier" is the holder of a carrier licence granted under section 56 of the Telco Act.

Section 127 of the TCPSS Act, for the purposes of Part 6, defines an "eligible carriage service provider" as:

- (a) a carriage service provider who supplies:
 - (i) a standard telephone service, where any of the customers are residential customers or small business customers; or
 - (ii) a public mobile telecommunications service; or
 - (iii) a carriage service that enables end-users to access the internet;
- (b) a carriage service intermediary who arranges for the supply of a service referred to in subparagraph (a)(i), (ii) or (iii).

Exemption from requirement to join the TIO scheme

Subsection 129(1) of the TCPSS Act provides that the ACMA may declare that a specified carrier or eligible CSP is exempt from the requirement to join the TIO scheme.

Under subsection 129(2) of the TCPSS Act, the ACMA must have regard to the following matters in deciding whether to exempt a carrier or eligible CSP:

- the extent to which the carrier or CSP deals with residential customers in relation to the supply of carriage services;
- the extent to which the carrier or CSP deals with proprietors of small businesses in relation to the supply of carriage services; and
- the potential for complaints under the TIO scheme about services supplied by the carrier or CSP.

This list does not, however, limit the matters to which the ACMA may have regard.

For example, where the applicant is a carrier, the ACMA may have regard to information contained within the applicant's carrier licence application, and the potential for complaints under the TIO scheme relating to the carrier's access to or use of land or buildings under schedule 3 of the Telco Act or under contractual arrangements with an owner or occupier of land or a building.

Before making a declaration to exempt a carrier or eligible CSP from the requirement to join the TIO scheme, the ACMA must consult the TIO.

Applicants should note that any exemption declared by the ACMA may be revoked at any time if circumstances warrant it.

Information that must be attached to the application

An applicant must provide the following information regarding the matters in subsection 129(2) of the TCPSS Act and other matters to which the ACMA may have regard. **An application that does not include sufficient information is incomplete and will not be processed by the ACMA.**

The applicant must:

- (a) explain the extent to which they deal with residential customers in relation to the supply of carriage services, including the approximate number of such customers as of the date of application and information on how this customer base has changed over time;
- (b) explain the extent to which they deal with proprietors of small businesses in relation to the supply of carriage services, including a description of the types of businesses, the approximate number of such customers as of the date of application and information on how this customer base has changed over time;
- (c) identify the proportion of their total customer base which residential and small business customers represent as of the date of application;

- (d) provide a brief description of the carriage services they supply;
- (e) explain the potential for complaints under the TIO scheme about services they supply (including any wholesale carriage services) and examples of such complaints; and
- (f) provide detailed information on the mechanisms they have in place to handle potential complaints made in relation to carriage services they supply.

In addition, an applicant that is a carrier must:

- (g) explain the potential for complaints under the TIO scheme arising from land or building access activities conducted by the carrier either under schedule 3 of the Telco Act, or under an agreement with the owner or occupier of the land or building, where relevant; and
- (h) provide detailed information on the mechanisms they have in place to handle potential complaints arising from land or building access activities conducted by the carrier either under schedule 3 of the Telco Act or under an agreement with the owner or occupier of the land or building, where relevant.

Applicant's assent

I declare that:

- (a) I am the applicant, or I have the authority to sign this application on behalf of the applicant;
- (b) the information provided in this form and enclosures is true and correct in every detail;
- (c) I am aware that the information provided on or with this form is sought and will be used to consider whether to grant an exemption under subsection 129(1) of the TCPSS Act, and may be disclosed to the TIO for the purpose of subsection 129(4) of the TCPSS Act, or to other persons in accordance with Part 7A of the *Australian Communications and Media Authority Act 2005*;
- (d) I am aware that an exemption from the requirement to join the TIO may be revoked at any time, if circumstances warrant it;
- (e) I am aware that it is a criminal offence to give false or misleading information or documents to the ACMA or to omit from the information or documents any matter or thing without which the information or documents would be false or misleading; and
- (f) if an exemption is granted, the applicant will advise the ACMA or the TIO in the event that there is a significant change in circumstances that may be relevant to the exemption.

Signed for and on behalf of the applicant

PRINT FULL NAME
POSITION/TITLE
DATE