



Telecommunications
Industry
Ombudsman

Submission to
Treasury's
Scams Prevention
Framework – exposure
draft legislation
October 2024

Contents

Executive Summary.....	3
1. The TIO supports mandatory cross-sector obligations to prevent scams and protect consumers.....	5
2. The SPF creates unintended consequences for IDR, telco consumer protection policy, and industry-based EDR schemes	6
2.1. The SPF’s failure to clarify IDR requirements and reimbursement heightens uncertainty and creates barriers for consumers.....	6
2.2. The consultation process has not provided sufficient time to test how EDR policy solutions will impact consumers.....	9
2.3. The SPF definition of scams does not mitigate the risks of confusion for consumers between scam issues and non-scam telco issues.....	9
2.4. The proposed EDR for the SPF endangers the telco complaints and consumer protection framework, and the integrity of industry-based EDR schemes	13
3. The SPF will not be effective unless a multi-EDR scheme model is put in place	16
Appendix – Multi-EDR scheme model diagram in detail.....	20

Executive Summary

The TIO welcomes the opportunity to comment on the Scams Prevention Framework (SPF) exposure draft legislation and Explanatory Materials.

Our submission provides insights from our unique perspective as the industry-based external dispute resolution (EDR) scheme for the telco sector, focusing on the implications of the SPF for complaint handling.

We maintain the TIO is the right choice for digital platforms EDR, including scam complaints. However, this submission puts this view to the side for now, acknowledging that future authorisation instruments propose to deal with this question are yet to be consulted on.

Instead, our comments:

- highlight the aspects of the SPF we support
- outline our concerns about unintended consequences for complaint handling, and
- propose a multi-EDR scheme model that can address several shortfalls of the SPF's framework for scam complaint handling, while still providing a single-entry point for consumers.

The TIO supports mandatory cross-sector obligations to prevent scams and protect consumers

The frequent and insidious nature of scams has eroded consumer trust and confidence in communications via telco services. We support reforms to disrupt scams, protect consumers, and improve trust and confidence in the relevant sectors.

Section 1 of this submission welcomes the aspects of the SPF that we believe will achieve these objectives.

The SPF creates unintended consequences for IDR, telco consumer protection policy, and industry-based EDR schemes

The TIO supports strong government action on scams. Yet the proposed approach to Internal Dispute Resolution (IDR) and EDR makes it confusing and hard for consumers to resolve complaints, undermining the effectiveness of the SPF.

Scam victims need clear IDR pathways to access quick and fair resolutions for their complaints. The SPF as currently proposed is unlikely to meet these objectives. It is unclear how IDR will work, including how consumers are expected to navigate IDR pathways across different sectors, or how liability should be apportioned.

The intent to authorise a single EDR scheme under the SPF will create an inefficient and lengthy EDR process for many consumers. Consumers will be more confused about which scheme to contact for their complaint than they are under the current system, and are likely to be shunted between schemes, reducing the effectiveness of EDR and creating barriers to resolution.

The Government's proposed approach to EDR also ignores the need for specialised telco expertise in important consumer protection issues other than scams, reducing access to fair outcomes.

Further, TIO relies on its ability to comprehensively collect, track, action, and share telco complaint insights to run its telco systemic investigation function effectively and contribute to telco consumer protections policy development. The TIO's data, insights and systemic investigation functions plays a significant role in supporting effective compliance and enforcement action by the telco regulator. By creating an environment where both the TIO and AFCA could handle similar telco issues in separate contexts (for example, financial hardship flowing from a scam compared with other telco complaints involving financial hardship), the TIO's access to complaint insights will be diminished and its industry improvement role will be weakened.

Requiring the telco sector to join one Ombudsman scheme for scam complaints will undermine the effectiveness of separate industry-based schemes, which have been operating successfully for over 30 years. Any erosion of the TIO's role in the telco sector risks broader implications for the telco consumer protections framework.

Section 2 of this submission outlines our concerns about unintended consequences.

The SPF will not be effective unless a multi-EDR scheme model is put in place

The TIO supports the Government's intention to provide straightforward pathways to EDR for consumers and is of the view that a true 'no wrong door' approach to complaints is the right way forward. This submission outlines how a multi-EDR scheme model can create a single-entry pathway for scams EDR, while maintaining the value of industry-based EDR arrangements.

The TIO recommends that the Government work with consumer representatives, industry, and EDR schemes to meaningfully explore how possible IDR and EDR models would work in practice, using consumer journey mapping and real examples, to identify and mitigate potential issues and avoid unintended consequences.

Section 3 of this submission demonstrates the need for and benefits of a multi-EDR scheme model.

1. The TIO supports mandatory cross-sector obligations to prevent scams and protect consumers

To address the scourge of scams, the SPF needs to provide clear, readily enforceable obligations on relevant sectors to protect Australian consumers. The TIO agrees with the Government's economy-wide approach to scams, and supports the designation of banks, digital platforms, and telcos as regulated entities in the first instance. We also support the six SPF principles (governance, preventing, detecting, reporting, disrupting, and responding to scams) which will provide a holistic approach to addressing scams across the scam ecosystem.

The TIO recognises actions taken by government and regulators to date to address scams, including the establishment of the National Anti-Scam Centre and the SMS Sender ID Registry. The TIO also supports the compliance and enforcement framework outlined in the Exposure Draft, which provides SPF regulators with the power to monitor, investigate, and enforce compliance with the SPF.

The current *Reducing Scam Calls and Scam SMS Industry Code*¹ places scam prevention obligations on the telco sector, but the Code is not directly enforceable and does not address consumer remedies. Noting the significant harm caused by scams, the current two-step compliance process in the Code is insufficient to prevent harm and support good regulatory outcomes that meet community expectations.² The Government should ensure that compliance and enforcement powers relating to the sector-specific SPF Codes are consistent and fit-for-purpose across all sectors.

Finally, the TIO supports proposed requirements on regulated entities to have accessible and transparent IDR mechanisms, and for regulated entities to be members of an SPF EDR scheme. It is important that scam victims can easily and quickly resolve their matter directly with regulated entities, and have access to independent, free and fair mechanisms to escalate complaints if the IDR outcome is unsatisfactory. Noting this, we are deeply concerned that the government's proposed approach to IDR and EDR will, in practice, create more issues for consumers and diminish the ability for industry-based systemic issue and complaint trend insights, which are important industry accountability mechanisms, to be actioned and published, as explored in **Section 2** below.

¹ Communications Alliance, Industry Code C661:2022 Reducing Scam Calls and Scam SMS

² For example, a recent ACMA investigation regarding breaches of scam information sharing and reporting rules in the Code resulted in a direction to comply as the ACMA was limited in taking further action: ACMA, [Symbio telcos breach scam info-sharing rules \(19 June 2024\)](#)

2. The SPF creates unintended consequences for IDR, telco consumer protection policy, and industry-based EDR schemes

Consumers need accessible IDR and a straightforward path to EDR. The proposed undermines the SPF's 'response' principle because the SPF is likely to cause poor outcomes, confusion, and delays for consumers.

The SPF may lead to unintended consequences because:

- the SPF's failure to clarify IDR requirements and reimbursement obligations for each regulated sector heightens uncertainty and creates barriers for consumers
- the consultation process has not provided sufficient time to test how EDR policy solutions will impact consumers
- the SPF definition of scams does not mitigate the risks of confusion for consumers between scam issues and non-scam telco issues, and
- the proposed EDR for the SPF endangers the telco complaints and consumer protection framework, and the integrity of industry-based EDR schemes.

2.1. The SPF's failure to clarify IDR requirements and reimbursement heightens uncertainty and creates barriers for consumers

Robust and accessible IDR is fundamental to ensuring consumers can access quick and fair resolution of their issues, while supporting businesses to maintain trust and confidence with their consumer base. IDR requirements will be critical to the success of the SPF because scam complaints involve complex multi-issue and multi-party matters, as well as considerable power and information asymmetry between consumers and regulated entities. This is why it is important that the draft SPF Bill and Explanatory Materials provide greater detail on how IDR will work in practice.

The draft SPF Bill's failure to address the significant challenges consumers face when trying to resolve scam complaints undermines the 'respond' SPF principle by creating barriers and challenges for consumers to try and resolve scam complaints.

A stakeholder information session run by Treasury in September 2024 said that these matters would be captured in SPF codes, but this is not acceptable because an effective EDR framework relies on a workable IDR framework. A failure to address this in the primary law will lead to consumers encountering hurdles in their efforts to obtain information and raise a complaint and experiencing significant delays and distress when trying to resolve their complaints. There is also a risk that this failure could cause a wave of EDR complaints because consumers cannot readily resolve their complaints through IDR.

Scams IDR must be clarified at the outset in an environment of consumer fatigue and distrust

We know that now is not the time to make raising and resolving complaints harder than it already is for consumers. Recent research undertaken by the Consumer Policy Research Centre³ for the TIO demonstrates the barriers consumers face in making and progressing a complaint. This research found that many people do not complain about telco problems:

- 46% of Australians who experienced a telco challenge in the past 12 months did not lodge a complaint
- 40% of people who did not complain said they did not believe their complaint would make a difference, and
- 77% of complaints were not made because the individual was sceptical or overwhelmed.

These barriers and challenges already exist where there are obligations on telcos about handling complaints⁴ and the consumer deals with one business. The burden of consumers having to potentially contact multiple businesses in the scam ecosystem for redress is likely to exacerbate these challenges and will create overwhelming barriers for consumers seeking help.

Even if a consumer can navigate the different sectors, it will be difficult for them to trust that they have received a fair and reasonable outcome, particularly given the information asymmetry between consumers and regulated entities. It will also be difficult for consumers to trust they have received a fair and reasonable outcome if some or all parties deny liability (which is likely to occur) and the SPF does not provide clear guidance on apportionment of liability between regulated sectors. This will further undermine the effectiveness of the IDR processes required to support the SPF.

The SPF must make clear who consumers should raise complaints with, and minimum IDR standards

The draft SPF Bill is silent on principles that could clarify how a consumer is supposed to raise complaints with the first three sectors to be designated (telcos, social media platforms, and banks). If a consumer experiences a scam, how is the consumer to know which regulated entity to approach? Will the consumer need to approach more than one regulated entity before they can access EDR? It is unreasonable that a consumer would need to determine which regulated entity failed to meet its SPF obligations to raise a complaint.

Equally, the consumer should not have the burden of being required to approach multiple regulated entities to have their problem resolved. However, careful consideration needs to be given to ensure that regulated entities have a right of reply and opportunity to engage with the consumer to resolve the issue before it progresses to EDR.

The draft SPF Bill only requires that regulated entities have an accessible and transparent IDR mechanism to make complaints about scams and the entity's conduct in relation to the scam. While the telco and financial services industries have regulated obligations in relation to IDR, this is

³ Prepared by Consumer Policy Research Centre for the TIO, [Barriers to effective dispute resolution in the telco industry \(July 2024\)](#)

⁴ Telecommunications (Consumer Complaint Handling) Industry Standard 2018

not the case for all regulated entities, further diminishing the consumer's experience when attempting to resolve their complaint.

Further, the Explanatory Materials clarify that IDR mechanisms should allow for compensation and other remedies, but there are no provisions in the SPF that address the issue of reimbursement for scam losses or other compensation.

Scams IDR cannot be clarified without addressing the question of reimbursement

The SPF Bill is silent on how to apportion compensation or reimbursement under the framework. It is unclear whether the SPF Codes will provide further guidance on this. The lack of clarity regarding liability and reimbursement obligations across the three sectors will cause confusion and delays for consumers seeking a fair resolution.

The question of reimbursement is inextricably linked with the question of IDR. This is because consumers are likely to approach the regulated entity they believe can give them the resolution they are seeking. It is also likely regulated entities will point to each other as responsible where possible to avoid additional costs, leading to the consumer being bounced between entities and their IDR processes.

The implications for different IDR models have not been adequately considered. For example, under a reimbursement model where banks (as the protectors of consumers' money) are the only party liable to reimburse a consumer where obligations are breached, the consumer would organically approach their bank. However, under the proposed SPF, the consumer may be confused about whether to approach their telco, social media platform, or the bank. In that scenario, the consumer may choose to contact their bank, but if they were dissatisfied with the bank's response, would the consumer then need to approach the telco or social media platform, or could they proceed straight to EDR?

Leaving the question of reimbursement and IDR mechanisms entirely to subordinate instruments is unlikely to provide the level of certainty required to foster consistent and accountable approaches across sectors, SPF regulators, and between regulated entities. It is also impossible to assess whether the SPF proposal for all regulated entities to be liable to compensate for scam losses is workable or not without set percentages or rules.

A lack of clarity will impact on IDR and by extension, impact EDR

Just as clarity of reimbursement obligations is a key issue to resolve for effective IDR, by extension, it will be core to the effectiveness of any EDR model developed to support the SPF. It is impossible to assess whether the SPF's approach to EDR will be workable without an understanding of how IDR will work in practice.

While industry-based Ombudsman schemes are equipped to decide what fair and reasonable compensation may be in each set of unique circumstances, it is impractical to take this case-by-case approach to reimbursing scam losses. The sheer volume of future scam complaints and the complexity of the scam ecosystem necessitates clear parameters on liability for reimbursing consumers for scam losses to support efficient, consistent, and effective complaint resolution.

2.2. The consultation process has not provided sufficient time to test how EDR policy solutions will impact consumers

We are concerned that the rushed consultation on the draft SPF Bill leaves no room for Government and stakeholders to test and refine policy solutions for the EDR framework. This includes limited testing of how consumers will navigate EDR arrangements using real examples and customer journey mapping, to determine if the designed solution will meet the Government's intentions of creating a straightforward, holistic, and consistent EDR experience. Nor has there been appropriate testing of the consumer experience of other options that do not disrupt current EDR arrangements (such as co-operation between EDR schemes on scam complaints).

The only public consultation was conducted on mandatory industry codes for scams at a high level in late 2023, with submissions due 29 January 2024. Since then, there has been no further public consultation, until 13 September 2024 when the draft SPF Bill was released.

The public consultation in late 2023 did not contemplate redirecting telco scam complaints from the TIO's jurisdiction or requiring telcos to join a second Ombudsman scheme. The announcement of this intention occurred alongside the release of the draft SPF Bill, giving the TIO and other expert and affected stakeholders no longer than three weeks to consider the implications for consumers, scam protections, and the telco sector at large.

Although the draft SPF Bill provides mechanisms to pursue other options, the Explanatory Materials include the express intention to designate AFCA as the single Ombudsman scheme for scam complaints and to require all regulated entities (including telcos) to join as members. Expressly stating this intention in the Explanatory Materials undermines the apparent flexibility in the other types of EDR mechanisms the SPF makes available.

A stakeholder information session run by Treasury in September 2024 also expressly acknowledged that Treasury is already in discussions with AFCA on the steps that will be taken to support AFCA resourcing and scaling up for when it steps into this role. This clearly demonstrates that there is no genuine intention to consult about any alternatives to AFCA being authorised as the sole EDR scheme for scam complaints.

Prematurely locking in which SPF EDR mechanism to use and specifying the scheme by name is inappropriate because there has been insufficient policy solution testing in this space, evident from the lack of consultation with the TIO and telco sector on this specific EDR model. It also precludes consideration of alternative mechanisms to achieve the 'respond' principle.

2.3. The SPF definition of scams does not mitigate the risks of confusion for consumers between scam issues and non-scam telco issues

Scams are complex and multi-faceted and the SPF definition does not, and may be unable to, prevent jurisdictional confusion about the right EDR scheme to access help from.

This failure undermines the SPF's 'respond' principle because confusion and overlap reduces the effectiveness of accessing EDR and EDR facilitated resolutions. It also complicates the prevention

and detection of scam activity by ringfencing scam activity from non-scam telco issues related to SPF scams that may not attract the same EDR jurisdiction and remedies.

Consumers presenting with scam complaints may be experiencing several non-scam telco issues, which are likely to go beyond SPF obligations. Non-scam telco issues could, for example, include financial hardship, mis-selling, identity verification, and connectivity issues flowing from credit management activity, technical issues, or account changes. Redress sought following a scam is also not limited to reimbursement of scam losses. Some complaints about scams do not involve money being taken and as a result do not involve banks.

Under a single scams Ombudsman model, non-scam telco issues may be split across complaints handled by AFCA and the TIO, which hampers the ability for industry-based EDR schemes to provide comprehensive and accurate systemic issue and complaint insights. We discuss this risk in greater detail in **Section 2.4** of this submission.

The following case studies illustrate scenarios where the consumer has experienced a scam that would be covered by the SPF, but the harm they have experienced can only be remedied by their telco and may involve other telco-specific obligations that the TIO applies routinely when exercising its non-scam telco jurisdiction. For example, in scenarios like those described below, the TIO may consider obligations to assess the consumer's capacity to pay under the Telecommunications Consumer Protection Code⁵ and whether obligations were met under the ACMA's Financial Hardship Standard.⁶

Case study – Marco is tricked by a 'friend' into providing his details and now has a large telco debt

Marco became friends with someone who lived in North America that he met through online gaming. The friend asked if they could use Marco's personal details to purchase two mobile phones, which he agreed to do, because his friend promised he would cover all the costs. The mobile phones were ordered and sent to the friend overseas.

However, Marco's friend was actually a scammer and did not pay him back for the phones. Marco subsequently received debt collection letters from his telco for over \$7,000. Marco told his telco he had been scammed, but they were not sympathetic and simply told him to pay the debt or they would disconnect his phone and internet services.

**Names of all parties have been changed*

⁵ Communications Alliance, Industry Code C628:2019 Telecommunications Consumer Protections Code (Incorporating Variation No. 1/2022)

⁶ Telecommunications (Financial Hardship) Industry Standard 2024

Case study – A romance scam puts Rose in financial hardship after she buys devices she cannot afford

Penelope developed a romantic relationship online with a man. The man asked her to call BranchTel and place an order for a mobile phone and plan for him. Penelope trusted the man, so she did as he asked. After ordering the phone and plan, she didn't receive a confirmation of the order or the mobile phone, so she assumed that BranchTel had not processed the order. Penelope later found out that the man she thought she was in a relationship with was a scammer and she cut ties with him.

Three years later, when Penelope tried to set up a new internet service with BranchTel, BranchTel rejected her service request because she had an outstanding debt with them that they had sold to a debt collector. That was when Penelope found out that the debt related to the mobile phone and plan purchased in her name when she had been scammed. At this time, Penelope was experiencing financial hardship and could not pay off this debt.

**Names of all parties have been changed*

Multi-issue complaints and overlap of responsibilities between EDR schemes create problems for any EDR model that does not facilitate, at a minimum, behind-the-scenes collaboration between industry-based EDR schemes. Consumers are likely to be bounced between AFCA and the TIO where the consumer makes the wrong assumption about who can handle their complaint, leading to the type of delays and poor consumer experiences that a single entry-point for consumers is intended to avoid.

The following scam issues fall within the proposed SPF definition of a scam, but may involve other non-scam telco issues that would remain within the TIO's jurisdiction, necessitating the splitting of complaint issues and potentially consumers being bounced between AFCA and the TIO:

- consumers who have been scammed, and as a result are now experiencing financial hardship and cannot afford to pay their telco bills. In these complaints, the cause of the hardship meets the scam definition, but financial hardship is a non-scam telco issue related to obligations under the Financial Hardship Industry Standard in the telco sector which fall under the TIO's jurisdiction
- consumers being subject to a telco impersonation scam, and then encountering other issues with the legitimate telco when they raise the issue of a scammer impersonating them, such as inappropriate upselling or misleading sales advice. The consumer may be reporting a scam within the definition, but the telco mis-selling issues fall outside AFCA's proposed scam jurisdiction and within the TIO's non-scam telco jurisdiction
- consumers experiencing telco service quality or access issues following a scammer impersonating the consumer's telco. While a scam within AFCA's jurisdiction caused the issue, looking at whether the service issue is a disconnection in error, inappropriate barring

or suspension, or Triple Zero access problem falls within the TIO's non-scam telco jurisdiction.

The multi-issue complaints outlined above cannot be resolved by providing AFCA with jurisdiction over non-scam telco issues that overlap with scam issues without risking:

- consumer confusion
- inconsistent application of telco-specific obligations
- erosion of the role and effectiveness of the TIO scheme
- undermining the TIO's industry improvement role by splitting non-scam telco issues between schemes, leading to the TIO having incomplete and less reliable telco complaints data, and
- creating competition between EDR schemes by having two Ombudsman schemes operating in the telco space.

Conversely, there are issues that fall outside of the SPF definition of a scam, but consumers are unlikely to understand the distinction between a scam covered by the SPF and other 'scam-like' issues. This is likely to result in consumers being directed by the TIO to AFCA, or by AFCA to the TIO.

The TIO identified over 3,049 complaints received between 1 January 2024 and 16 September 2024 where the consumer's description of their complaint indicated the consumer believed they were the victim of a "scam". Based on a detailed review of these complaints, only 331 complaints fell within the definition of a scam under SPF. Of the over 3,049 complaints, 486 complaints related to fraud, falling outside of the SPF's scam definition and with the fraud issues being the subject of existing telco-specific obligations. This means the overwhelming majority of consumers who have complained to TIO this year about what they believe to be a 'scam' would fall outside the definition of scam under the SPF.

Examples of complaints that would still sit with the TIO under the SPF but may result in a consumer being confused about whether they should approach AFCA include:

- a fraudster obtaining a consumer's information and then using it to deceive a telco into providing the scammer with access to the consumer's account. Where the only identifiable attempt to deceive is perpetrated by the scammer onto the telco (and not an SPF consumer), the scam is not captured by the SPF, despite the consumer ultimately suffering the consequences where debt is incurred
- a fraudster conducting an unauthorised SIM swap because the telco did not properly verify the consumer's identity, leading to the consumer having money withdrawn from their account and loans applied for in their name
- consumers finding out about money being withdrawn, debt incurred, or a default listing that is fraudulent (incurred by someone else under the consumer's name), but being unaware of what led to this happening. It could have been a successful attempt to deceive a consumer that the consumer is too embarrassed to admit, or that the consumer did not notice when

it happened. Equally, it could have been from a data breach or hacking incident, which would not be considered a scam under the SPF

- a consumer having their phone number used by scammers to spoof calls. The consumer receives calls from people about the scam activity they think the consumer has conducted, but there has been no attempt to deceive the consumer, so this would not be captured despite the issues clearly relating to scam activity.

2.4. The proposed EDR for the SPF endangers the telco complaints and consumer protection framework, and the integrity of industry-based EDR schemes

We are concerned that the draft SPF Bill does not support the collaboration between EDR schemes that is necessary to deliver a true ‘no wrong door’ solution by prematurely designating AFCA as the sole EDR scheme for scam complaints. This approach to EDR detracts significantly from fulfilling the SPF’s ‘respond’ principle because it undermines efficient and effective industry-based EDR and risks inflicting further detriment consumers.

The intention to authorise AFCA as the SPF EDR scheme is problematic because the unintended consequences for consumers, telcos, the telco consumer protection framework, and industry-based EDR schemes have not been properly considered. There has been no robust testing of EDR policy solutions, including the proposed option to designate AFCA as the single EDR scheme for scam complaints. Equally, there has been no robust testing of alternative approaches that would retain the jurisdiction and membership of existing schemes.

The TIO agrees with Government and consumer representatives that the consumer experience of EDR should be as accessible and simple as possible, and that a single point of entry helps achieve this. We do, however, disagree that a single point of entry requires all regulated entities to join a single Ombudsman scheme, and for that single Ombudsman scheme to handle scam complaints without collaboration with other industry-based schemes.

Industry-based EDR schemes are a key pillar of the consumer safeguards framework in Australia and have been operating successfully for over 30 years. By requiring telcos to join AFCA just for scam complaints, the Government undermines the effectiveness of separate industry-based schemes and this may lead to a gradual erosion of the jurisdiction of the TIO scheme. This has consequences for the telco sector, because:

- it creates competition and potential inconsistency in complaint outcomes by having two Ombudsman services for the telco sector
- it weakens the TIO’s role and authority as the independent and fair umpire for telco, including the TIO’s ability to collect comprehensive complaint data and information to inform the identification and investigation of systemic issues, public reporting on telco complaint issues, and policy contributions to the telco consumer protection framework
- any derogation of the TIO scheme will have a negative impact on the fairness of the telco sector more generally.

Requiring telcos to join AFCA adds a significant, unnecessary and avoidable administrative burden on AFCA that would detract from AFCA fulfilling its expanded role to receive and resolve scam complaints. The TIO is already positioned to provide telco-specific technical expertise and knowledge, complaint resolution experience, established relationships across a complicated supply chain, systemic issue identification and investigation experience, and public reporting and policy contributions on telco consumer issues.

The proposed model risks eroding the TIO's industry improvement and consumer protection policy contributions for the telco sector. Government relies on the deep understanding that industry-based EDR schemes, like the TIO, have of the consumer protections that apply to their members when developing consumer protections policy. Industry-based EDR schemes have this understanding because of access to their own complaints data and through their very effective systemic issue identification and investigation functions.

The TIO plays a vital role in improving telco sector processes and practices and as an industry accountability mechanism. Where the effectiveness of an industry-based Ombudsman scheme's industry improvement function is hampered, it also undermines the scheme's ability to support prevention, detection, and disruption of scams.

The Government's proposed single Ombudsman scheme model would undermine the TIO's ability to comprehensively collect data and insights about telco complaint issues. As discussed in **Section 2.3** of this submission, there are many complaints that under the SPF that would be brought to AFCA but involve telco related issues as well. Splintering the TIO's jurisdiction will erode our important contribution to policy development because we will not have access to the complete picture of the specific consumer protection issues and how they are being addressed in dispute resolution.

Further, the draft SPF Bill seeks to involve telcos alongside banks for scam complaints, but does not address what would happen when a single consumer has scam and non-scam telco complaint issues. If there is no capability for both schemes to collaborate behind-the-scenes on the consumer's complaint, it is unclear whether AFCA would be required to split off the non-scam telco issues to the TIO or whether AFCA would deal with the non-scam telco issues to make the experience more seamless for the consumer.

In either case, this will have the effect of eroding the TIO's jurisdiction and effectiveness as the industry-based EDR scheme for telco. In turn, this will erode consumer understanding of where to take issues involving their telco that fall outside of scam loss recovery. It also erodes the ability of regulators to enforce telco breaches, a critical part of the telco consumer protections framework that contributes to building trust and confidence in the telco sector.

The SPF should support an approach where consumers have a single-entry point, but EDR schemes collaborate behind-the-scenes to efficiently and effectively resolve scam complaints using their specific industry expertise. Allowing the Treasury Minister to set conditions and requirements of a scheme as part of authorisation does not provide sufficient certainty to capture the mechanisms needed for a future-proof collaborative model. This type of model would require

arrangements to be made between schemes for the purpose of sharing information and resolving complaints. For example, the multi-regulator provisions more fully contemplate the need to support collaboration between sector-specific regulators, instead of leaving these issues to subordinate instruments.

Section 3 of our submission explores alternative approaches that can better meet the Government’s SPF principles while creating a straightforward and simple pathway for consumers.

3. The SPF will not be effective unless a multi-EDR scheme model is put in place

We recommend maintaining the intention of an EDR framework that provides a single-entry point for consumers, while also ensuring that the SPF supports a robust multi-EDR scheme model.

A true ‘no wrong door’ approach to consumer complaints would provide greater simplicity for consumers, while also leveraging the expertise and membership of the relevant EDR schemes. Leveraging existing expertise and membership facilitates a truly holistic and comprehensive response to scam complaints, as well as for complaints that consumers believe are about scams but involve other banking and telco issues (such as fraud).

To simplify complaints and support collaboration even further, the TIO suggests an AFCA-led multi-EDR scheme model. This model will reduce costs on EDR schemes and industry. It ensures a simple and easy process for consumers to make complaints and achieve truly fair and reasonable outcomes because it leverages existing industry-based EDR expertise across both schemes. Our proposed model will also be quicker and easier to implement than requiring telcos to join AFCA.

An AFCA-led multi-EDR scheme model retains a single point of entry for consumers and facilitates the TIO and AFCA working together behind the scenes to resolve multi-issue complaints. This multi-EDR scheme model would facilitate the resolution of scam complaints as well as telco complaints that are not captured by the SPF, but are brought to AFCA by consumers who believe their complaint is about a scam. The Treasury Minister can give effect to this model by designating both AFCA and the TIO as SPF EDR schemes, with conditions that establish AFCA as the single entry-point and default scheme where no other industry-based scheme has been designated.

For a consumer, the experience would be seamless because there would be no circumstances where they would be bounced from AFCA to the TIO, or from the TIO to AFCA. The multi-EDR scheme model also means consumers do not need to self-determine if their problem is about a scam or fraud, or have their non-scam telco issues split off to the TIO, they can simply have their problem fixed at a one stop shop. To illustrate the benefit to consumers of a multi-EDR scheme model, it is useful to consider a case study that demonstrates a multi-issue complaint.

Case study: A scam puts Sami into financial hardship and he cannot pay his telco bill

Sami fell for a scam which resulted in money being taken from his bank account. The scam put Sami into financial hardship, and he knew that he would not be able to pay for his next phone bill. He contacted his provider to explain what had happened and asked for hardship assistance. His telco agreed to put his account temporarily on hold and not take credit management action.

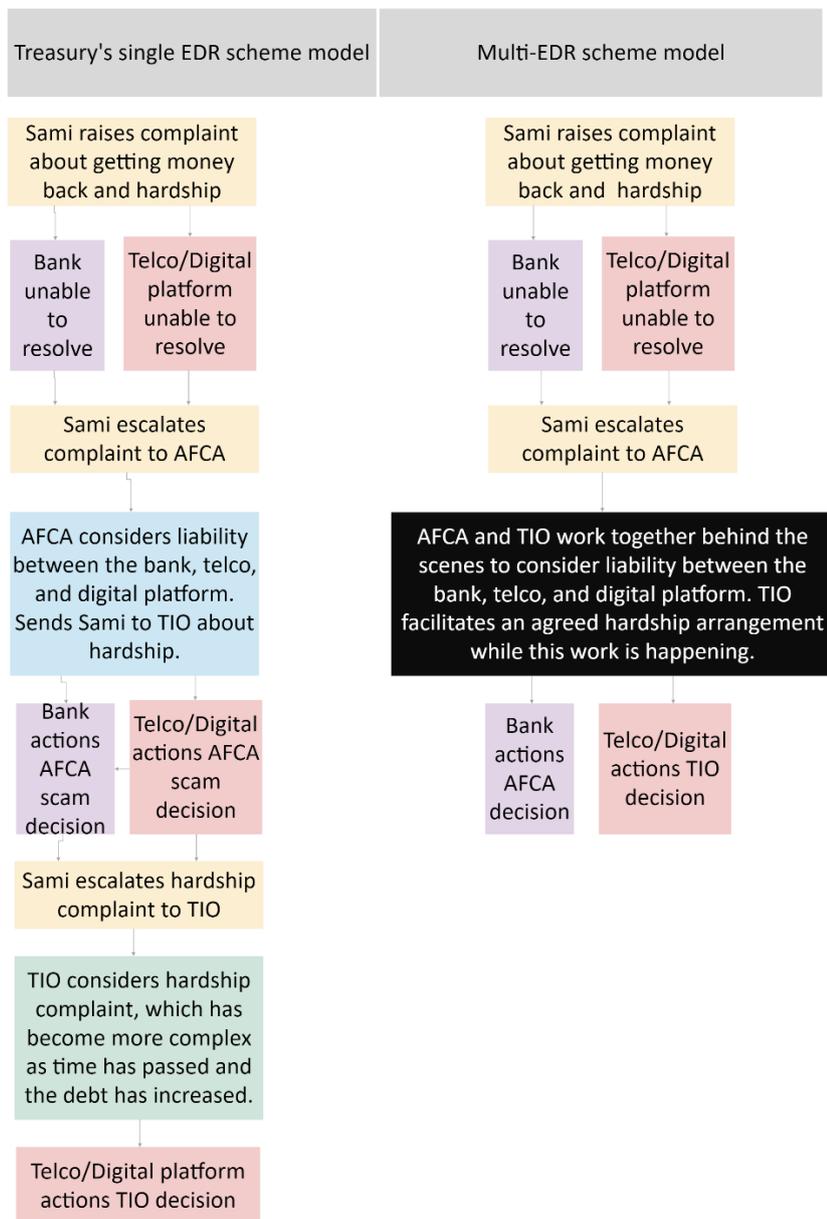
Sami felt relieved until he received an email from his telco saying that his account had been cancelled due to non-payment and he had to pay the outstanding charges straight away. Now Sami has been left without phone services and has an outstanding debt with his telco provider that he cannot pay off.

**Names of all parties have been changed*

Under the proposed model, the cause of Sami’s hardship is a scam under the SPF’s definition, meaning it would fall under AFCA’s jurisdiction. However, a telco hardship complaint is a non-scam telco complaint that the TIO would retain jurisdiction over, despite its proximity to a scam.

If Sami has not yet reached a resolution about getting his money back from his bank, and he needs financial hardship assistance from his telco, this creates a multi-issue complaint. Under the Government’s proposed model, Sami may be bounced between the TIO and AFCA to deal with the separate issues. This will lead to confusion and delays, and potentially greater harm while Sami continues to experience hardship and is without access to his essential telco service.

Figure 1 – Sami’s experience of scams EDR through the proposed model and the multi-EDR scheme model



The TIO proposes a multi-EDR scheme model as a solution that has a range of features and benefits that support the SPF’s objectives.

Table 1 – Multi-EDR scheme model features and benefits

Feature	Benefits	SPF principles
<p>Single point of entry and communication for consumers</p> <p>AFCA is the single touch point for consumers to access EDR and receive updates on progress and outcomes</p>	<p>Retains the benefit of Government’s proposed model for consumers – reduced burden, confusion, and risk of complaint fatigue.</p>	<p>Respond</p>
<p>Industry-based (not issues based) approach to:</p> <ul style="list-style-type: none"> • EDR scheme membership – telcos do not need to join AFCA • communication – TIO communicates with telcos, AFCA communicates with banks. TIO and AFCA rely on existing information gathering and compliance obligations for telcos and banks • industry improvement – TIO uses its expertise on other obligations and practices to more quickly and expertly analyse potential systemic issues with telcos, publicly report on complaints, and make policy contributions. 	<p>Mitigates the risk of eroding the effectiveness of industry-based EDR schemes and adding complexity for consumers.</p> <p>Minimises administrative burden on AFCA, freeing up AFCA’s time and resources to address banking matters and activities needed to scale up.</p> <p>Reduces the burden on and confusion for telcos by ensuring they only need to join one EDR scheme, instead of two as would be required under the Government’s proposed model.</p> <p>Future proofs industry EDR arrangements as it can be adapted and applied to other matters as needed. This model can be scaled and adapted to support collaboration as sectors and products evolve, further strengthening and adapting the industry EDR model into the future rather than calling it into question through a single Ombudsman for scams across industries.</p>	<p>Respond</p> <p>Prevent</p> <p>Detect</p> <p>Disrupt</p>

Feature	Benefits	SPF principles
<p>A single process that allows for collaboration and staggered resolutions</p> <p>The complaints process set under subordinate instruments alongside a memorandum of understanding would be led by AFCA and participated in by TIO staff to resolve complaints.</p>	<p>Consumers do not need to understand what an SPF scam is to get quick assistance through a single process and won't be bounced between the TIO and AFCA's different processes for multi-issue complaints.</p> <p>Existing powers and regulator functions can be leveraged. The TIO and AFCA can use their respective information gathering powers and before decisions are issued, consult to ensure consistency. They can issue separate decisions against their own members, at different stages of the complaint process. Decisions are enforceable through ASIC for AFCA and the ACMA for the TIO.</p> <p>The ability for partial or interim decisions could be built into the process to ensure consumer redress is not unnecessarily delayed by complexity with multi-issue complaints wherever possible.</p>	<p>Respond</p>

Appendix – Multi-EDR scheme model diagram in detail

