

5.66 The proposed arbitration procedure needs to be understood in the context of the role and powers of the Telecommunications Industry Ombudsman (TIO). The TIO administers a scheme on behalf of all carriers (Telecom, Optus and Vodafone) whereby if a consumer can demonstrate loss caused by the actions of a carrier, the TIO has power to make a binding award of up to \$10,000. In cases where the loss suffered is greater than \$10,000, the TIO may make a recommendation to the carrier concerned that an amount up to \$50,000 should be paid. The carrier is not obliged, however, to accept or act upon the recommendation.

5.67 The features of Telecom's proposed arbitration procedure for resolving major and protracted disputes were -

- a voluntary scheme
- one which, if entered, is binding on the customer
- the procedure is applicable to any dispute between a customer and Telecom which they have been unable to resolve by direct negotiation and
 - the claim does not exceed \$250,000
 - it does not involve a complex matter of law
 - it is pursued within 12 months of Telecom's last reply
 - no legal proceedings on the dispute have been commenced
 - it does not involve a matter which falls in the jurisdiction of the Telecommunications Industry Ombudsman
- where the claim exceeds \$250,000 Telecom may, at its discretion, agree to arbitration
- the administrator will nominate an arbitrator whose appointment shall be by agreement of the customer and Telecom
- the arbitrator is to be a person of clear impartiality, independence and integrity with expertise in relevant legal, technical and accounting issues or access to them and with experience in commercial assessment and arbitration.