14 January 2026

To: **Economic Development, Science and Innovation Committee**

Bill: **Telecommunications Amendment Bill (the Bill)**

From: **Utilities Disputes Limited (Utilities Disputes)**

Summary

Utilities Disputes is New Zealand's premier dispute resolution provider for complaints involving utilities and is a known point of contact for consumers. We continue to expand our reach through community engagement, focused publicity, media outreach, and raising public awareness. We operate independently from industry, with an independent board, on a not-for-profit basis. We deliver dispute resolution schemes covering electricity, gas, water, and telecommunications. This reporting year Utilities Disputes is projected to help nearly 14,000 individuals and companies resolve their complaints, and an additional 14,000 Kiwis with queries about their utility company.

In telecommunications, we deliver the mandatory dispute resolution scheme for the laying of fibre in shared property, the Broadband Shared Property Access Dispute Resolution Scheme (BSPAD Scheme). We have been providing this service since 2017 as part of the initiative to support New Zealand's fibre roll out, allowing property disputes to be resolved without the need to involve the courts.

Utilities Disputes also provides an independent voluntary telecommunications complaint scheme for Contact Energy and its 110,000 telecommunications connections. This scheme is not an industry dispute resolution scheme under part 7 of the Telecommunications Act 2001 (TA 2001) but is operated in accordance with best practice dispute resolution principles in New Zealand and Australia.

We will apply to become an industry dispute resolution scheme once the proposed changes under the Bill come into law.

We are supportive of any changes that make it easier for consumers and providers to have access to dispute resolution, however, we are disappointed the proposed amendments have not gone further, by introducing a single mandatory industry dispute resolution scheme for telecommunications. A single industry dispute resolution scheme would better align with best practice in dispute resolution and make it easier for consumers, providers and regulators to improve the level of service delivered in the telecommunications sector.

In response to the amendments, we highlight the following:

I. The telecommunications industry generates over $5 billion in retail revenue each year.[1] The complexity, scale and importance of the telecommunications industry should be complemented with best practice dispute resolution.

II. A review of the current telecommunications landscape confirms the level of consumer complaints being received is unusually low and out of step with Australia and other complaints schemes. This indicates potential flaws in the current model which are unlikely to be addressed through the changes proposed in the Bill.

III. Best practice dispute resolution would introduce a single mandatory industry dispute resolution scheme for the telecommunications sector that is independent of industry, easy to access, and which operates in the same way as the principal dispute resolution schemes for energy, banking, finance, and insurance. This would promote:

    i. identification of systematic consumer issues;
    ii. data and decision driven improvements to service delivery; and
    iii. easy and effective access to dispute resolution services for all consumers, including the vulnerable.[2]

IV. We support moves to make it easier to become an industry dispute resolution scheme, however, we see the proposed changes as a missed opportunity to greatly improve the standard of dispute resolution in the telecommunications sector. Our preference would be for a single mandatory industry dispute resolution scheme covering all providers.[3]

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[1] Com Com*, 2024 Telecommunications Monitoring Report*, 13.

[2] The difficulties of having more than one scheme are seen in the financial sector, where there have been four dispute resolution schemes with differing approaches (see discussion MBIE, *Review of the Approved Financial Dispute Resolution Scheme Rules*, April 2021). The financial schemes have worked hard to co-ordinate and synchronise their approaches. However, in the current context, where there is an opportunity to revisit how telecommunications complaints are considered it is not clear that adopting a muti-industry dispute resolution scheme approach is desirable.

[3] We also support the amendments set out in the *Telecommunications and Other Matters Amendment Bill* ensuring that overseas telecommunications providers are explicitly subject to the telecommunication's regulatory regime.

V. We believe the $50 million revenue cap for membership is unnecessary and will create a gap in consumer protection. We operate a mixed fee model for membership of our schemes based on a number of factors, including market share and the number of complaints received which means membership costs are not prohibitive for smaller providers. Smaller providers will typically have leaner operating models and complaints handling teams, meaning access to independent dispute resolution is more important for them and their customers. Our mixed fee approach also promotes best practise amongst providers including better internal complaint handling.

VI. The amendments to part 7 of TA 2001 seek to encourage the entry of new industry dispute resolution schemes into the telecommunications market. These new entrants will likely have their own retail service quality code(s) and will consider any Commission Codes. It would be the purpose and role of the new industry dispute resolution schemes to hear and consider complaints about these codes. It would also be appropriate for Com Com to review these retail service quality codes. The term *retail service quality code* is defined in TA 2001 and has an expansive meaning: *"…a code of conduct relating to retail service quality that applies to the provision of 1 or more types of telecommunications service."*

However, the amendments to TA 2001 use the defined term *industry retail service quality code.* This has a narrower meaning, referring to *a retail service quality code made by the Forum.* The use of this term could restrict the new industry dispute resolution schemes. Therefore, to achieve the vision of opening up telecommunications to new industry dispute resolution schemes we recommend replacing the term *industry retail service quality code* with term *retail service quality code* in s 235 and the redrafted ss 241 and 247 of TA 2001. Without these amendments there is a risk of confusion, and the amendments not having their desired effect.

VII. Utilities Disputes supports making permanent the rights of fibre providers to install fibre on shared property. We also support allowing the right of entry to apply when there is a direct request to a provider to lay fibre even though the requestor does not have a retail contract. An affected person will still be able to challenge the installation whether the rights of entry arise regardless of the requestor being a retail customer or not.

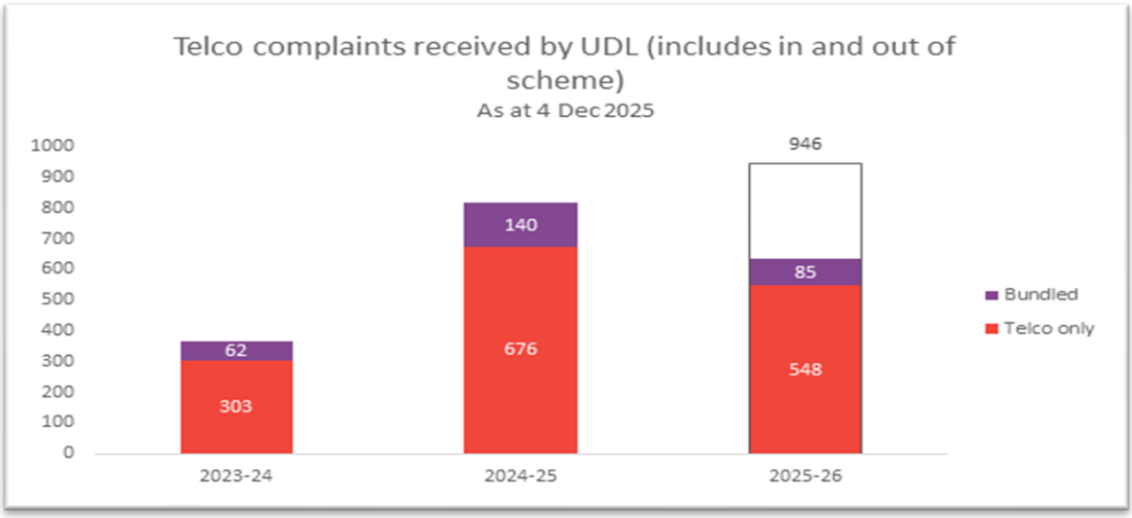
Utilities Disputes

1. We provide dispute resolution schemes in telecommunications, electricity, gas and water. Our largest scheme is the government mandated Energy Complaints Scheme which considers complaints made by consumers against electricity and gas retailers and distributors.[4] Across its schemes Utilities Disputes is projected to resolve 14,007 complaints and 13,938 queries this reporting year.

Telecommunications: Utilities Disputes Independent Dispute Resolution

2. In telecommunications we provide a voluntary and independent telecommunications dispute resolution scheme. This scheme has been operating since 1 April 2023 and is not an industry dispute resolution scheme under part 7 of TA 2001. At present we are the only competitor to the industry dispute resolution scheme established by the New Zealand Telecommunications Forum (TCF).[5] If the proposed amendments are adopted, Utilities Disputes will transform its voluntary telecommunications scheme into an industry dispute resolution scheme which would be open to all, including those telecommunication providers under the mandatory $50 million turnover threshold.

3. Our comments on the Bill and current state of telecommunications disputes are based on our significant experience of resolving utility complaints for over 25 years. It is also informed by the overlap of issues that consumers experience in both their energy and telecommunications services, particularly as these are often provided through a single provider as part of a bundled offer. As shown in the chart below, electricity and telecommunications are frequently bundled together.



[4] See s 95 of the Electricity Industry Act 2010 & s 43E of the Gas Act 1992.
[5] In legislation called the Forum.

4. Com Com also notes that bundled products are increasing in market share: *"Broadband/energy bundles continue to be one of the fastest-growing segments, increasing in 2024 to 304,000, up 14% compared to last year*."[6] Growth in AI, coupled with new entities such as accredited requestors under the Consumer Data Right, and the projected development of billing aggregators,[7] all point to utilities being increasingly interconnected, and the importance of having a centralised hub for consumer complaints.[8]

5. We introduced our telecommunications complaint scheme to provide a single point of contact for complaints about telecommunications and electricity. It has proved to be efficient for customers and the retailer, we have drawn on this experience when submitting on the Bill.

A Single Industry Dispute Resolution Scheme

6. Utilities Disputes believes the amendments to the Bill should have gone further to ensure the telecommunications sector has best practice dispute resolution. As set out in submissions to the Ministry of Business, Innovation, and Employment (MBIE) and others, the most efficient model for telecommunications dispute resolution is a single Ombudsman type scheme that is open to all providers.[9] In the context of the TA 2001 amendments, this would require the introduction of a single industry dispute resolution scheme.

7. A single mandatory dispute resolution scheme, regularly reviewed, has many advantages. It allows for consistency in decision making, consistent data collection and can provide an opportunity to mandate specific reporting requirements that can provide greater transparency on how a sector is performing in terms of consumer issues.

8. The Commissioner or Ombudsman model is typical of dispute resolution schemes overseas in water, electricity, banking, finance and telecommunications. They cover energy, finance, insurance and banking in this country. Industry Ombudsmen or Commissioners can have various titles, but the key factor is the decision-making framework of the scheme and its scope. [10] Characteristics of the Commissioner or

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[6] Com Com*, 2024 Telecommunications Monitoring Report*, 2024, 36

[7] Companies who will manage a consumer's billing across utilities and/or where a consumer has multiple retailers for the same utility.

[8] Com Com has issued bundling guidelines for energy and telecommunications: *Product Disclosure – Retail Service Bundling Guidelines (Energy and Telecommunications)*, 22 Nov 2023. See also: *Product Disclosure – Price and Cost Guidelines*, 23 Oct 2025. These documents are example of Com Com exercising its powers under s 234 of the TA 2001.

[9] See Utilities Disputes, *Enhancing Telecommunications Regulatory and Funding Frameworks*, 19 June 2024.

[10] See Productivity Commission (Australia), *Access to Justice Arrangements: Productivity Commission Inquiry Report*, v1 NP.72, September 2014, 311, 314. Note the UDL Commissioner does not have the title Ombudsman,

Ombudsman model are there is a single independent decision-maker for an industry, who is independent and is able to either assist the parties to resolve the complaint and/or issue a binding decision if required. Such bodies with their flexible jurisdiction are focused on providing a quick, and efficient outcome for the consumer.[11]

9. Research suggests a Commissioner or Ombudsman type scheme can provide significant savings to the consumer in terms of: providing expert assistance to the consumer; lowering the amount of time a consumer may spend on a complaint; and in providing an avenue for the more difficult complaints.[12] An independent scheme with a single decision maker also enables a single collection point for complaints data. Such data helps identify trends and systemic issues which the decision-maker can feed back to providers, regulators, the government and the public.

10. The telecommunications industry generates over $5 billion in retail revenue each year.[13] It is an industry that touches nearly every Kiwi, therefore we think it is time for this major industry to be treated like energy, and there be a single industry dispute resolution scheme for consumers to access. Such a development would be a fulsome response to the current status quo, where there are indicators consumers are not finding an avenue to raise their complaints when their provider is unable to resolve them.

Moving on from the Status Quo

11. The first stage of complaints resolution in telecommunications is provided by each retailers' internal complaints handling team. The next stage, of external dispute resolution is provided by Utilities Disputes, and the industry dispute resolution scheme established by TCF - Telecommunications Dispute Resolution (TDR).[14] Utilities Disputes' telecommunications scheme covers approximately 110,000 connections (unlike our energy scheme which covers every New Zealand energy consumer). TDR's scheme covers at least 8.3 million connections.

12. A separate company Telecommunications Dispute Resolution Limited (TDRL) is responsible for TDR. TDRL has appointed another entity to act to deliver the dispute resolution scheme - Fair Way Resolution Limited – which operates on a for-profit

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but the Energy Complaints Scheme is run on such a model, where there is a central decision-maker to consider complaints about the energy industry. Because of the nature of the Energy Complaints Scheme the UDL Commissioner is a member of Australia and New Zealand Ombudsman Association (ANZOA). For ANZOA's membership criteria see ANZOA, *Rules and Criteria*, (amended 22 Nov 2018), sch 1.

[11] See *Contact v Moreau*, CIV 2017-485-962, [2018] NZHC 2884, paras 99-121.

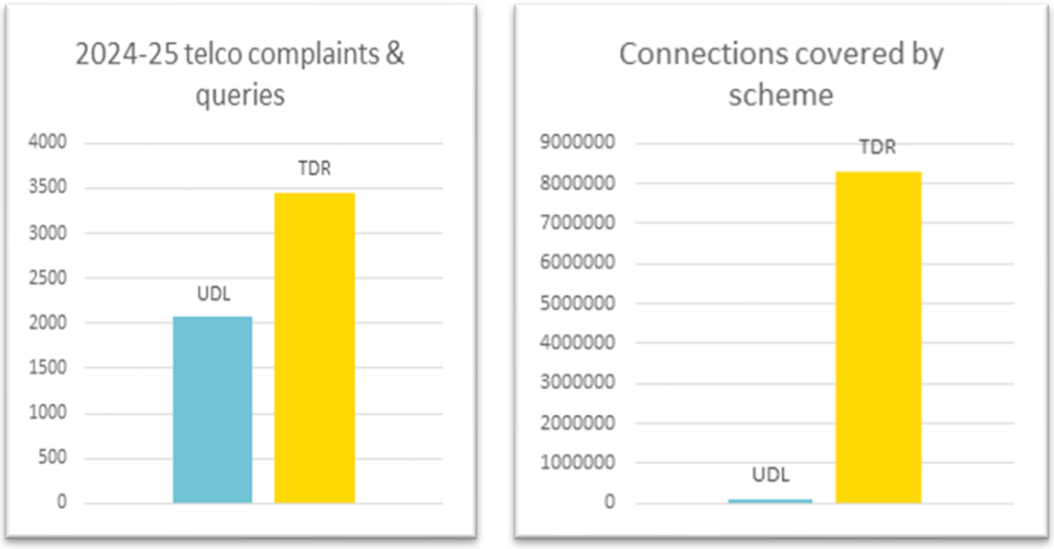
[12] See discussion in New Zealand Institute of Economic Research (for UDL), Independent Dispute Resolution – Cost Benefit Analysis, 12 November 2024, pages 1-2, 6-19. It is estimated such bodies can make saving of up to $2-4 million.

[13] Com Com, *2024 Telecommunications Monitoring Report*, 13.

[14] See s 232 of TA 2001.

basis. It appears it undertakes all of the day-to-day operations of TDR.[15] Under this model there appears to be no central decision maker as in the case of the Commissioner or Ombudsman type scheme, and we understand independent contractors are used to produce decisions on complaints.

13. Based on the public information available it appears this configuration of dispute resolution services in the sector is not serving Kiwis well. TDRL appears to group complaints and queries data in its reporting, sometimes using these terms interchangeably. TDR recorded 3,454 complaints in 2024-25. While TDR covers 80 times as many customer connections as Utilities Disputes' telecommunications scheme, we received approximately 60% (2,068) of this volume in telecommunications complaints and queries in the same period:



14. TDRL says of this workload: "*This year, TDR received 3,454 complaints, which was in line with the 3460 complaints received last year. After significant shifts during the pandemic and following major market changes, volume now appears to have settled into a new normal.*"[16] However the previous year TDRL noted the 3460 figure was a reduction: "*Over the past year, we received 3460 enquiries and complaints, a 7.11% decrease from the previous year*."[17] Com Com also expressed some concern about the low level complaints considered by TDR.[18] Compared to our nearest neighbour Australia, the complaints per population ratio is very low.

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[15] See Com Com, *Review of Telecommunications Dispute Resolution Scheme (2024)*, paras 35-43 & TDR, *Telecommunications Dispute Resolution: Annual Report 2025*, 3.
[16] *TDR 2025 Annual Report*, pg. 10.
[17] *TDR 2024 Annual Report*, pg. 16.
[18] "While there may be difficulties in direct comparisons, the per capita usage information from CRK and UDL suggests potential underutilisation of the scheme and need for TDR to look at opportunities to broaden its reach to consumers to engage with the scheme when disputes arise." Com Com, *Review of Telecommunications Dispute Resolution Scheme (2024)*, para 59. CRK = Cameron.Ralph.Khoury: UDL = Utilities Disputes. See also

Membership v Access

15. Utilities Disputes therefore supports making it easier for providers to offer an industry dispute resolution scheme, and the removal of the unique statutory place of the TCF's established complaints scheme. However, such amendments do not appear to be a complete response to the current context of telecommunication disputes resolution services.

16. The consumer issue appears to be less about increasing the number of resolution schemes, but the model of dispute resolution that is being delivered. We think a model of one industry dispute resolution scheme is the best response to this consumer issue.

$50 million Cap and the Cost of Mandatory Membership

17. The Bill requires providers who have gross annual revenue of at least $50 million to be members of an industry dispute resolution scheme. This amendment is a change from the initial proposal of a $10 million threshold:

    "…the regulatory impact statement included an option to mandate membership in an industry dispute resolution scheme for retail providers that earn over $10 million in annual retail telecommunications revenue. However, the threshold that will be given effect by the Bill is $50 million per annum, rather than $10 million. The increased revenue threshold will reduce the number of providers that will be liable to join an industry dispute resolution scheme from what was discussed in the regulatory impact statement. This will reduce new costs for telecommunications providers which are typically passed on to consumers. The benefits described in the regulatory impact statement, however, will also be reduced, as less consumers than initially anticipated will have access to an industry dispute resolution scheme." [19]

18. Utilities Disputes does not support the $50 million threshold. In our view all providers should be required to be members of an industry dispute resolution scheme, but if a threshold is introduced, we recommend the introduction of the $10 million requirement. We reach this view based on our experience from the energy sector and because of the size and importance of the telecommunications industry for Kiwis and the current low number of complaints being considered.

19. We understand there is a concern not to: a) increase consumer costs, and b) place burdens on new providers which may stifle innovation. However, a fee model similar

discussion in CRK (for Com Com), *Expert Report – Telecommunications Dispute Resolution*, Oct 2024, paras 20-23.

[19] *Disclosure Statement: Telecommunications Amendment Bill*, 5.

to that in place for the energy sector, where fees are worked out on market share and the number of complaints received can manage the costs. Such a mixed model also incentivises good practice, as fees will be lower if the provider receives fewer complaints. Fit for purpose dispute resolution can also lead to market efficiencies and product improvement. The Australian Commonwealth Ombudsman observes:

"It is good practice for an agency's senior management to receive regular reports on its complaint handling performance and trends in complaint data. This kind of reporting provides valuable business intelligence and can enable the executive to respond proactively to potentially systemic issues." [20]

Drafting Issue: Retail Service Quality Code or Industry Retail Service Quality Code

20. The Regulatory Impact Statement advises the amendments seek to make it easier for new industry dispute resolution schemes to enter the telecommunications market, and to consider Commission Codes and their own retail service quality codes:

"Industry dispute resolution schemes are currently required to hear complaints on Commerce Commission codes and industry retail service quality codes made by the Telecommunications Forum. There may be a need to adjust the legislated purpose of an industry dispute resolution scheme to ensure that alternate schemes can hear complaints on their own codes, as well as Commerce Commission codes, and that there is a level of consistency across the types of issues that are heard by schemes."[21]

21. The Bill proposes to amend s 241 (referral of disputes) and s 247 (purpose of dispute resolution schemes) to achieve this objective.

22. However, the amendments do not appear to adequately reflect this intent because these sections refer to an *industry retail service quality code*. This term is defined in s 5 to mean "*…a retail service quality code made by the Forum."* Retail service quality code is also defined in s 5 and has a broad definition: *"…a code of conduct relating to retail service quality that applies to the provision of 1 or more types of telecommunications service."*

23. The use of the term *industry retail service quality code* is limiting, as is it is confined to TCF codes. However, the new industry dispute resolution schemes will likely have their own *retail service quality code(s)* which will assist the scheme to resolve complaints. Utilities Disputes presently has such a code for its telecommunications scheme, and absent a comprehensive Commission Code, this code or a version of it

[20] See Commonwealth Ombudsman*, Lessons in Good Complaint Handling, Findings from the 2010 Complaint Assurance Project*, Feb 2020, 23.
[21] *Regulatory Impact Statement*, 20 November 2024, para 136.

would be part of our industry dispute resolution scheme. The original and proposed redrafts of ss 241(1) and 247 sections are set out below:

Current 241(1)	**Proposed 241(1)[22]**
A dispute between a consumer and a telecommunications service provider about their rights and obligations under a Commission code may be referred to an industry dispute resolution scheme by any of the parties to the dispute	A dispute between a consumer and a telecommunications service provider about their rights and obligations under any of the following matters may be referred to an industry dispute resolution scheme by any of the parties to the dispute: (a) a Commission code: (b) **an industry retail service quality code to which the service provider is a signatory:** (c) any other matter related to retail service quality.
Current 247	**Proposed 247**
The purpose of a dispute resolution scheme is to ensure that, if a consumer has a dispute with a service provider in relation to a Commission code or an industry retail service quality code, the consumer has access to a dispute resolution scheme for resolving that dispute in accordance with the principles set out in section 246(2)(f).	The purpose of an industry dispute resolution scheme is to ensure that, if a consumer has a dispute with a service provider in relation to one of the following matters, the consumer has access to a dispute resolution scheme for resolving that dispute in accordance with the principles set out in section 246(2)(f): (a) a Commission code: (b) **an industry retail service quality code to which the service provider is a signatory:** (c) any other matter related to retail service quality.

24. As drafted both sections make no allowance for *retail service quality codes* offered by the new industry dispute resolution schemes to its members because they refer to an *industry retail service quality code* rather than simply *retail service quality code*. Importantly s 241 might be read as requiring an industry dispute resolution to consider complaints about Forum codes (TCF). Likewise, s 247 could suggest that a purpose of an industry dispute resolution scheme is to consider Forum codes where providers are signatories. The drafting is ambiguous and does not appear to fully capture the vision behind the amendments to encourage new industry dispute

[22] Emphasis not in the original.

resolution schemes to enter the telecommunications market and who will: "…*hear complaints on their own codes, as well as Commerce Commission codes*…" Given the legislative purpose of allowing providers to sign up to alternative dispute resolution services instead of the industry dispute resolution scheme which is established by the TCF, it would not make sense to require those alternative providers to be required to administer disputes under Forum codes. Utilities Disputes therefore suggests that the amended ss 241 and 247 should refer to a retail service quality code in the bolded provisions quoted above.

25. Com Com's power to review codes found in s 235 appears to require a similar amendment:

(1) "The Commission may, at any time, review an industry retail service quality code."

To ensure Com Com can thoroughly review the new industry dispute resolution schemes it should have the power to review any *retail service quality codes*. Therefore, we recommend in s 235 replacing *industry retail service quality code*, with the term *retail service quality code*.

26. In summary a further review of ss 5, 235, and the redrafts of ss 241 and 247 appears required. Much of the ambiguity may be clarified by replacing the term *industry retail service quality code* with the term *retail service quality code*. MBIE officials will be able to provide further clarity on the amendments needed to open up the telecommunications industry to new industry dispute resolution schemes. Utilities Disputes' view is that all codes would form part of industry practice that a decision-maker could take into account in considering disputes.

Utilities Disputes – Broadband Shared Property Access Dispute Resolution Scheme

27. Utilities Disputes operates the mandatory dispute resolution scheme for the laying of fibre in shared driveways, the BSPAD Scheme.[23] The BSPAD Scheme was reviewed in 2025 and received a positive review:

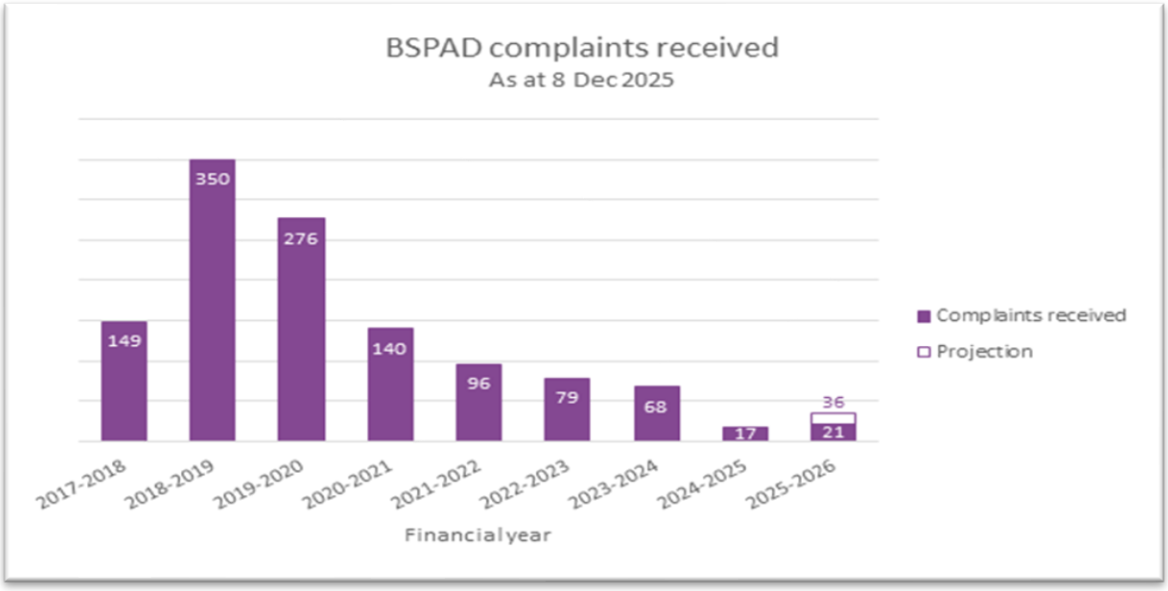
"The Scheme has demonstrably met its purpose of enabling fibre connectivity throughout New Zealand. The Scheme allows homeowners to contest fibre installation in their shared driveway or other shared property situations and has made a significant contribution to New Zealand's fibre connection rate being 75 percent. A significant proportion of these connected households belong to shared driveways that would otherwise rely on a consent-based approach, which has historically achieved limited connection. Both providers that are members of the Scheme and end-users, think that the Scheme appropriately straddles the line of

[23] See s 155ZG of the TA 2001.

allowing statutory property access for fibre installation and a pathway for objection to this access."[24]

Fibre Amendments

28. Utilities Disputes is supportive of the proposed changes to the TA 2001 in making permanent the rights of fibre providers to install fibre on shared property upon request. Making the rights permanent will give certainty to consumers and providers. Utilities Disputes noted a decline in the number of BSPAD Scheme complaints when the future of the entry rights appeared to be coming to an end. With confirmation that the statutory right would continue complaint numbers increased:



29. Utilities Disputes further notes restricting the rights to category 1 and 2 installations appears to have limited the right sufficiently to ensure it is not overly broad but also benefits consumers.[25] If there is a doubt as to if an installation is a category 1 or 2 installation, Utilities Disputes as needed seeks legal advice and advice from industry experts as to the correct category.

30. Utilities Disputes notes the amendments allowing the property right to be invoked upon a direct order to a provider. Utilities Disputes sees no issue with this, as the definition of affected person remains materially unchanged. The affected person can challenge the installation whether the rights of entry arise because the requestor is a retail customer or not.[26]

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[24] Allen & Clarke, *Broadband Shared Property Access Scheme Evaluation*, 16 April 2025, 2.
[25] See schs 2 & 3 of the Telecommunications (Property Access) Regulations 2017.
[26] "affected person: (a) means a person whose consent an FTTP service provider or a network operator would, but for this subpart, have to obtain before entering the property or carrying out the installation" s 155(D)(1) of the TA 2001 & cl 11 Bill.

Utilities Disputes thanks the Economic Development, Science and Innovation Committee for the opportunity to comment on the Bill. If the Committee has any questions, please at the first instance contact me at: paulb@udl.co.nz

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