

# Improving Retail Service Quality: Product Disclosure

## Commerce Commission

2degrees submission

7 December 2022





## 1 Introduction

Thank you for the opportunity to comment on the Commerce Commission *'Improving Retail Service Quality: Product Disclosure Emerging Views Paper'* (the **Emerging Views Paper**).

2degrees is a consumer champion - we're all about providing our customers with great service, and we support Kiwis making an informed choice, consistent with our purpose 'Fighting For Fair'.

As we've said before, retail service quality is an area we're constantly looking to improve and we compete on. It's a reason Kiwis choose 2degrees over our competitors. This focus aligns with both the 2degrees and Vocus challenger brands, which officially joined forces in June 2022.<sup>1</sup>

In reflection of our commitment to fairness and service quality, we are recognised as not just NZ's fairest telco, but as one of the 'fairest' companies in New Zealand.<sup>2</sup> We're also stoked to have received numerous awards for our retail services, including from NZ Compare and Consumer NZ – most recently in December 2022 2degrees were awarded the Supreme Champion award by NZ Compare at the NZ Power and Broadband Awards, as well as Mobile Provider of the Year, Best Value Mobile Provider, Best Network for Business and Best Fibre Broadband Provider (the latter under our Orcon brand). Earlier in the year the Commission will be aware 2degrees also won Consumer NZ's People's Choice award for best mobile and broadband service provider and Canstar Blue's 2022 Most Satisfied Customers for Mobile Monthly Plans award.

2degrees support initiatives that make it genuinely better for consumers to compare and switch services – this is consistent with 2degrees' long-held support and use of important services such as number portability and comparison websites, and usage/spend transparency to our customers (including via our mobile app and Your 2degrees portals, even prior to the Commission's mobile transparency work). We're happy to work with the Commerce Commission and the TCF in relation to further potential initiatives supporting retail service quality where that's needed.

That said, so we can also update and provide consumers with all the great other things we're doing, make sure comparisons are fair and not misleading consumers, and spend our resources – which ultimately go to consumer costs – wisely, we're keen to make sure initiatives:

- Are targeted and proportionate to the issue identified (there should be a clear evidence base for the scope and size of issues being addressed by a regulator: any regulatory interventions should be proportionate to the size of a problem identified, considering problem definition and cost versus benefits).
- Are thought-through and a practical, efficient way to address the identified concern (as outlined in the TCF submission, industry have some concerns with suggestions implementation should come before relevant discussions and code agreement. We're also keen to ensure any identified changes are practically implementable and within reasonable and realistic timeframes, which is important for us to ensure great consumer experience).

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<sup>1</sup> Vocus NZ and 2degrees officially announced they had "merged" on 1 June 2022. We are in the process of combining our systems and processes, and coming together under one '2degrees' brand. See: <https://www.2degrees.nz/media-releases/2degrees-and-vocus-nz-merger-completes>.

<sup>2</sup> Kantar Corporate Reputation Index, 2022.

- Ensure unintended consequences are minimised, including the potentially negative impact and distortion of competition between telecommunications operators. (For example, a particular issue with one provider, but not another, doesn't necessarily mean regulatory intervention is the answer. In addition, actions could unintentionally harm competition, including by 'standardising' competing and differentiated offering that offer consumers choices, and by diverting competitive resources from operator initiatives aimed at improving consumer experience).
- Consider other relevant initiatives in the market - both commercial and regulatory - including as these may have overlapping objectives and resource requirements that need to be prioritised versus other activities (examples could include comparison tool work and the development of potential Commission 'dashboards').

We do think there's significant but important work to ensure the above, and so to make sure the right tools are being used to solve concerns identified. 2degrees appreciate that the Commission is seeking stakeholder feedback on such challenges as part of this Emerging Views Paper consultation, and we welcome and support this approach, which we hope represents the first step in ongoing work between the Commission and industry on these issues.

In the remainder of this response 2degrees set out comments on each of the Commission's identified aspects of Product Disclosure:

- Comparing prices;
- Comparing total costs;
- Comparing plan inclusions;
- Comparing bundle pricing;
- Comparing customer numbers; and
- Comparing mobile coverage.

Underpinning each of these aspects are our comments above regarding evidence of issues, proportionality, process and avoiding unintended competitive harm.<sup>3</sup> This submission should be considered complementary to the TCF RSP submission, which discusses overarching issues in further detail, and that 2degrees also support.

## 2 Comparing prices

As a consumer and competition champion 2degrees support consumers having access to a range of products that may suit their individual needs and comparison across those products:

- While price is important, it's just one factor. This is reflected in both our product offerings and our ongoing support of third-party comparison sites, for both fixed and mobile services.

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<sup>3</sup> For example, while we don't like any of our customers to have issues, regarding the extent of the concerns we note that the Commission has recently advised that 2degrees (excluding Vocus, for which figures have not been provided) had 16 issues related to product disclosure reported to the Commission for the year to September 2022. While this is just enquiries to the Commission and does not include other complaint/enquiry avenues (for example the TDRS, which 2degrees belong too), we note this related to alleged (not upheld) complaints/enquiries and is in the context of over 1.5 million consumers. 2degrees only had 1 upheld complaint at the TDRS over this period.

- While telecommunications services are inherently complex, 2degrees seek to provide consumers with key information for comparison in a simple, clear way, that avoids information overload, with further information available as required.

2degrees share the Commerce Commission's concerns that consumers may get confused between offerings of different length, for example plans of 28 days rather than monthly, so that there are 13 rather than 12 billing cycles in a year. 2degrees support pricing being provided on a monthly basis. This is a standard period of time that is relevant to contracts of multiple durations. We agree with the Commission that this would make it easier for customers to make comparisons between plans and note:

- 'Monthly' is already the standard period of time used by the industry for fixed broadband;
- 'Monthly' is something that the Commission is aware 2degrees have been a strong advocate for in the mobile market, including with our 'Unfairuary' campaign,<sup>4</sup> and
- 2degrees provide minimum monthly costs for our products.

While 2degrees strongly support monthly time periods, we do not support standardising the time period over which prices in marketing must be disclosed to the average monthly price over 24 months, as has been suggested. This is because we think it would undermine competition and be misleading for consumers.

Our competitive marketplace means that there are contracts of multiple durations available, including open term, 6 months, 12 months and 24 months, and different non-price benefits associated with those terms:

- Relevant costs to the consumer are the costs associated with the contract length they are signing up too. Not all consumers are the same and not all should be encouraged to stay with an operator for 24 months.
- Operators should not be required to market to consumers with costs not relevant to the contract terms they are providing.
- In practice, requiring specific time periods to be required could be expected to lead to:
  - A reduction in competitive offerings for consumers, for example standardising timing to the period required/structuring plans to best fit the time period chosen by the Commission;
  - Unintended consequences, including a reduction in competition if consumers are encouraged to 'lock-in' to a particular provider for 24 months rather than shorter time periods that support switching;
  - Misleading comparisons, for example the cost of an open term plan or two 12-month plan periods (which allow greater flexibility, including changing providers) is not equivalent to a 24-month plan (which has much less flexibility).
  - Potential information 'clutter' for consumers that must be provided multiple messages for compliance, which could create customer confusion and is inconsistent with our keeping things clear and simple approach.

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<sup>4</sup> See, for example: <https://stoppress.co.nz/news/2degrees-continues-asking-kiwis-if-their-telco-is-charging-them-for-a-13th-month/>.

While we are not clear this needs Commission intervention, with the emergence of third-party comparison sites for both fixed and mobile comparison of prices as well as other factors, if regulatory action is to be taken our preference is that:

- All offers (fixed and mobile) are encouraged be provided on a monthly basis (noting regulation may not be required).
- If average prices are to be required in addition to this:
  - 2degrees consider average monthly prices should be provided for the length of the contract the consumer is signing up for (whether that be open term (monthly), 12 months or 24 months). In all cases this should be monthly and not 4-weekly.
- If any specific time period is adopted, this should be 12 months not 24 months and must prominently include the time the customer is locked in for (in recognition these will not be like for like comparisons).
  - We note 12 months is consistent with the period of time already adopted by broadband comparison site Glimp, and is consistent with the majority of broadband plans that are not open term (but there are a limited number of both 6 month and 24 month plans);
  - 12 months is consistent with the Commission's approach to the mobile market last year, which included disclosure of 12 months usage and 12 months spend information.

We consider the priority should be that plans are provided on a monthly basis (which the Commission could encourage).

### 3 Comparing total costs

2degrees supports and seeks to ensure that consumers understand the costs associated with the plan they are signing up to at the point of sale. This includes by providing access to the Broadband Product Disclosure Code Offer summary.

While we understand the intention of the Commission's proposal for minimum total costs:

- We would like to better understand the nature and extent of the issue the Commission is seeking to address, as this is not a significant complaint raised by 2degrees customers and we are unclear that this is a concern across services.
- Total minimum cost is an uncommon requirement internationally. While we recognise the New Zealand telecommunications market can implement a different approach, we would like to see the Commission provide a clearer evidence-base case for the proposed approach and what success looks like. This would include consideration of whether simpler alternatives, for example monthly price and term length, or more ready access to the existing offer summaries (which set out set up costs but not total costs) are sufficient to address the consumer need identified. This is also potentially an opportunity for competitive comparison sites.
- As indicated above, there may be unintended consequences related to extensive (and multiple) information/placement requirements. These would need to be considered in the design of any customer-friendly solution.

Given upfront costs are a feature of fixed rather than mobile plans, it may be that this is primarily a fixed concern that should be targeted as such. As the Commission is aware, TCF telecommunications operators are already required to disclose costs, in a standard template offer summary under the Broadband Product Disclosure Code for fixed products. The purpose of this offer summary is to reduce complexity for consumers when choosing a broadband plan, including by ensuring broadband service providers describe their plans to consumers in a consistent, comparable way. These offer summaries provide consumers with initial and set up costs, but not total costs, as well as other information that was determined should be provided to consumers.<sup>5</sup>

If following further consideration the Commission considers it necessary, the TCF could consider changes to the Broadband Product Disclosure Code to address the provision of minimum total costs. This code is already scheduled to be reviewed in 2023.

Regarding mobile, we note the total cost concern is likely to be lower:

- Mobile plans do not have set up or install costs.
- All 2degrees' mobile plans are open term, which means our customers have the flexibility to move whenever they like: they are not locked in for long time periods. This means for most consumers the minimum total cost is their monthly plan fee (already set out in the plan card).
- Customers can bring their own device or purchase a phone outright.
- While customers can choose to purchase a new smartphone interest free over time by signing up to a plan for a period of their choice (e.g. 12 months, 24 months, 36 months, with the period determining the payment level), they are not locked into the plan and can change this (including by paying for the phone, or remaining balance, outright). These consumers are advised of their minimum plan cost.

We note customers can also choose and change different bundled services over time, which impacts impact their minimum costs.

## 4 Comparing plan inclusions

2degrees are actively seeking to grow our customer base and encourage consumers to compare our plans against others as part of the competitive marketplace. Our growth to date is a reflection of this.

We know consumers make comparisons through a number of means to identify what best meets their particular needs, for example:

- Operator marketing and operator websites;
- Comparison tool providers, for both fixed and mobile. 2degrees have supported and note that Mobile Compare has recently launched alongside other providers including Glimp and Compare Bear;
- Consumer review websites, including Consumer NZ and Canstar Blue; and
- Word-of-mouth.

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<sup>5</sup> We note both MBIE and the Commission were involved in this.



Our key concern with comparisons is that they are fair, do not mislead or confuse customers based on factors that may not be relevant to them and unintendedly harm competition, and that any potential implementation requirements associated with this, which have resource and cost implications, are proportionate.

The TCF Broadband Product Disclosure Code, agreed in New Zealand back in 2013, already requires operators to set out an agreed set of key terms to support consumer comparison of broadband products (with broadband the focus, given no installation or set up costs and national three-player infrastructure competition in mobile).

The requirements are extensive. They include service descriptions, availability, service charges/allowance, additional charges, set up charges, other charges, minimum contract period, early termination fee, notice period, other requirements, traffic management, service restrictions, fair use policy, effects on other services, complaints process information and disputes process information.

While this is an industry code, both MBIE and the Commerce Commission were engaged during the development process and input and supported it.

As the Commission has identified, the TCF Broadband Product Disclosure Code provides an opportunity to consider further ways to assist consumer comparisons. As noted previously, this code is already scheduled for review in 2023:

- 2degrees support considering issues raised by the Commission, and industry issues, as part of this process. This will include the standardised plan summaries (content and format).<sup>6</sup>
- We agree with the Commission that making offer summaries easier to find across operator websites would be useful to consider as part of this process.

We note that details of the process and views on issues (including key fields of information, timeframes/priority and scope) will need to be considered with the wider TCF membership, and in the context of other industry and regulatory initiatives. This would include additional initiatives from the Commission that may have overlapping objectives/resources/impacts on consumers.

## 5 Comparing bundle pricing

2degrees agree bundles of products can be attractive and convenient for consumers. They can also allow consumers and operators to benefit from economies of scale.

2degrees offers both bundled fixed and mobile products and, following the 'merger' of 2degrees and Vocus, services including electricity. Importantly, the 2degrees brand recently entered the power market, offering bundled broadband and electricity. We want to bring our Fight For Fair to the electricity market, and are planning a 'full-noise' entry into the electricity

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<sup>6</sup> We note that the Commission's currently proposed content ('key fields of information') do not represent a simple 'lift and shift' of an overseas based solution or 'best practice solution'. For example, the Critical Information Summary provided by Australian operators does not ensure exact uniformity of information between providers, have 'coverage' or 'total minimum cost over a standard timeframe' categories. The content would need to be considered as part of the TCF process, and applied to the New Zealand context.

market in 2023.<sup>7</sup> Our goal is to bring the ‘2degrees effect’ to household electricity<sup>8</sup> and our intention is to support increased transparency around electricity pricing.

As a result, 2degrees are supportive of the Commission’s general proposal that the price elements of bundled electricity-telecommunications services should be disclosed to improve the transparency of pricing of energy as a product to customers.

2degrees are open to working with industry to improve how bundling of products can be more effectively displayed to consumers.

We note:

- Given the significant overlap with the electricity market further consideration is required as to whether a solution under the Telecommunications Act 2001 is the most appropriate mechanism. We support and encourage the Commission continuing to engage with the Electricity Authority and energy providers as this issue is progressed.
- Further consideration of how to apply this in practice will be required. For example, the Commission’s suggestion that the best way to enable effective comparison of offerings is to ‘show the bundled price of each service against the best available unbundled price for the same service’ is difficult to apply for operators such as 2degrees, that do not offer energy as a standalone service.
- The scope/priority of the issue for other bundled services, including broadband and mobile services would also need to be given further consideration, particularly given the greater transparency of these discounts to customers.
- Again, we also need to consider when any new information is required to be provided where this is best to be presented.

## 6 Comparing Customer Numbers

2degrees support the Commission collecting a comparable, accurate and stable definition to measure customer numbers between operators.

The Commission currently collects customer connection data from operators as part of its annual monitoring questionnaire, which we consider is an appropriate mechanism to support this.

2degrees are happy for the Commission to update the existing definitions going forward, for example to a 90-day prepay definition (as was previously used), should the Commission consider that necessary. However, we note:

- This will impact the comparison of reporting over time, with a 90-day measure not currently being collected;

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<sup>7</sup> See <https://www.2degrees.nz/media-releases/2degrees-enters-power-market>.

<sup>8</sup> In our view, to support competition we think there needs to be a regulatory revamp in the electricity sector. Most critically, to enable improved wholesale access to electricity, which is essential for a robust and competitive market. We note 2degrees’ entrance comes at a time when Consumer NZ reported “Consumers are facing rising power costs at a time when some electricity retailers are enjoying ever-increasing profits” and ‘More price rises are on the way’.



- We would need to work with the Commission to clarify the details of any new proposed definition; and
- We do not support retrospective collection of data, which we expect would have practical, resource and cost implications.

While we support changes the Commission wishes to make to its own definitions, we do not consider the Commission is able to determine and change external definitions.

There are legitimate reasons why external reporting of customer numbers may differ from the definition the Commission ultimately decides to use (and that the Commission changes from time to time).

We think it's important to acknowledge that different reporting definitions used by third parties should not be considered inaccurate (inaccuracy being an issue identified in the Emerging Views Paper that the Commission is seeking to address).

2degrees are strong supporters of competition, but do not consider reporting definitions of customer numbers to be a key issue for our customers or potential customers, nor impacting competition.

Given the Commission has access to accurate and like-for-like numbers to compare services through its monitoring questionnaire (which we support) we do not consider this to be a priority issue.

## 7 Comparing Mobile Coverage

To support customer transparency, 2degrees provide a mobile coverage map on our website. This allows consumers to enter their address and view the technology coverage that is available in their area.

However, mobile coverage maps are much more complex than fixed maps:

- As acknowledged by the Commission, mobile coverage maps rely on models that cannot account for all factors that affect real-world performance (which could include trees, buildings, weather, devices, etc). This means that we cannot and do not warrant coverage at a particular location. The results on our coverage map are indicative only. We would not want to imply greater accuracy than this.
- Our coverage map model is not the same as the model of other mobile operators – we all have different inputs, including as a result of using different vendors, equipment, link budgets, propagation models, spectrum etc. This means to be accurate, it is not a matter of simply aggregating individual operator maps on a 'Broadband Map' or agreeing common terms. In fact, we're aware this could be misleading.<sup>9</sup>

We are concerned the Commission may be underestimating the complexity of implementing its proposed coverage map 'solution', and perhaps overestimating the 'accuracy' of the limited international examples it points to:

- We are aware that this process has proven difficult and costly overseas, even when some aspects are implemented to a lesser standard than the Commission has proposed (for

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<sup>9</sup> Significant caveats would be required to explain that operator coverage maps are not 'apples-with-apples' comparisons.

example, using inconsistent methodologies, such as in the UK, which we understand took years).

- We are also aware of potential competition issues – for commercial and competition reasons operators don't share model inputs with competitors.

2degrees are happy to further explore potential opportunities and their feasibility, but we think the steps outlined by the Commission represent a substantial amount of work and resource, that the Commission needs to be realistic about in terms of evidence of an issue/scope, feasibility and timeframes. We think the priority should be linked to consumer issues. We note:

- 2degrees provide mobile coverage c.98.5% of places Kiwis live and work, and other networks are similar, which means high level differences in areas are more limited.
- 2degrees already provide an address checker that works on its own model of coverage map.
- We have very few consumer issues related to our coverage map, or lack of an integrated coverage map. In our experience, consumer issues with 'coverage' are primarily where coverage is limited or non-existent (most often in rural/fringe areas, including where coverage may be uneconomic for operators to provide service). Consumers can use our existing maps to identify limited coverage, but coverage maps do not address this issue.
- While the Commission have identified the coverage map can be 'hard to find on RSP's website', this is not consistent with our experience. We note a link to our coverage map is the top search result when searching '2degrees coverage' on a search engine or 'coverage' on the 2degrees website.
- It is true that actual coverage can differ from coverage maps. This is because, as set out above, coverage maps are indicative only, and can vary based on lots of factors.
- At 2degrees we think actual customer experience is important. That's why we don't lock customers into 2degrees plans:
  - 2degrees customers and potential customers can check our coverage map for an indicative view of coverage.
  - Not only that, if you join 2degrees on a fixed wireless, pay monthly or business plan we offer a network guarantee: if you're not happy within the first 30 days, you can request your money back<sup>10</sup>. We do this as a solution to support competitive switching, which the Commission encourages.

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<sup>10</sup> Money back request should be initiated within the first 30 days. Money back excludes card payment fees.