



**TCF Submission to
Commerce Commission**

In response to the emerging views paper on improving retail service quality through product disclosure

6 December 2022

A. Introduction

1. Thank you for the opportunity to comment on the emerging views paper on improving retail service quality through product disclosure.
2. This submission is provided on behalf of the following retail service provider members of the New Zealand Telecommunications Forum (TCF): Spark, 2degrees, Mercury and Vodafone.
3. We appreciate the opportunity the Commerce Commission (the Commission) has provided to engage on the issues using the emerging views paper approach.
4. In this submission we:
 - i. Recommend further work to ensure we have the problem definition right, have considered a range of options for solving the issues, and that any new measures we work on deliver positive outcomes for most consumers.
 - ii. Offer thoughts on the suggested process, in response to your questions about the best way to implement proposed solutions.
5. Individual TCF members will complement this submission with feedback on particular proposals.

B. Some more policy work is needed before we talk about possible solutions

6. The Emerging Views paper pulls together a set of issues that have been raised by stakeholders, for example through the Commission's Facebook survey. It then proposes one way to address each of them. While this is a useful way to get the conversation started (and we appreciate the approach of issuing an emerging views paper), we think some more policy work is needed before getting to the solutions stage. What we have in mind is:
- i. **Problem definition:** we want to be sure the underlying problem or problems are defined, the magnitude is great enough to justify intervention, and that we are focusing on the most effective outcomes for consumers, not just responding to issues raised (especially where the evidence is more anecdotal).
 - ii. **Reflecting further on the evidence:** this will help with the problem definition and options work. We expand on this point below.
 - iii. **Considering the options:** thinking about a range of options to address the defined problem or problems, and assessing these against a policy framework (more on this below). As part of the further work on options, there is scope to look more closely at some of the international comparisons mentioned in the Emerging Views paper.
 - iv. **Consumer testing:** testing proposed solutions with a range of consumers to ensure what we've come up with meets the needs identified earlier in the process.
 - v. **The overarching policy objective:** doing this policy work while keeping sight of the broader context, in particular the overarching policy objective to promote competition. In other words, let's take a step back and think about the bigger picture of product disclosure and how interventions in this area can help or hinder competition. We have a well functioning market and don't want to jeopardize this by going too far to standardise products. This could discourage competition, including new entrants coming to the market with innovative products and pricing.
7. We appreciate this approach takes more time at the beginning of the process. We think it's worth investing time in the foundations to get quality regulation at the other end.

Some more specific thoughts on the evidence base

8. It would be useful to reflect further on the findings in the December 2021 [Baseline Report](#). This report incorporated valuable insights from the 2021 Consumer Telecommunications Survey. It also pulled in insights from less robust sources, such as a Facebook survey, which have been included as issues in the Emerging Views paper.

9. We think it's worth taking another look at a few things in the evidence base, such as:
- i. Only 15 percent of respondents to the survey were asking for improved information for comparison purposes. It is important to keep this in mind when thinking about whether the magnitude of a particular problem is sufficient to justify intervention, and where best to direct our respective efforts. This might lead us to focus on some big picture things rather than tweaking smaller things around the edges.
 - ii. Whether the more anecdotal inputs from the Facebook survey are backed up by evidence of a standard that is needed for evidence-based policy making and regulatory intervention.
 - iii. Whether there is evidence to support particular findings and options. For example:
 - i. Was there enough evidence to bring pre-pay mobile into scope?
 - ii. Is there evidence to show that a significant proportion of consumers are calling out for more information about market share and would this make a difference to their choice of provider? We think information about market share is of use and interest to the Commission, but seems less useful for consumers. We note also that the Commission already has means to source this information.

We could workshop some of this together

10. The Commission has offered the opportunity to engage in different ways, including the idea of workshopping. We would like to suggest a workshop to work through the policy issues raised above, and to perhaps develop a policy framework for the retail service quality product disclosure mahi. We didn't see one in the emerging views paper. This would give us a chance to bring together competition and other principles, and have a framework for assessing which issues to work on and to assess options against.

C. How to go about the product disclosure work - some thoughts on the process suggested by the Commission

11. In the Emerging Views paper the Commission asks for feedback on how to implement particular options, and highlights a number of implementation approaches, such as guidelines, codes and implementing things first and doing guidelines and codes later. We comment below on three things:
- i. Timeframes for the work
 - ii. The process the Commission has suggested, and

- iii. An alternative process that would have better outcomes in relation to product disclosure.
12. We also note that any future product disclosure interventions ideally will need to apply universally across the retail market. Partial regulation of the market is unlikely to deliver the intended benefits for consumers.

Timeframes

13. We think the Commission may be underestimating the time required to put in place the suggested solutions to the issues raised in the Emerging Views paper. The solutions canvassed in the paper would not be able to be implemented quickly.
14. We focus here on price comparison as an example of the timing problem. Feedback from our counterparts in the UK and Australia is that similar work on price comparisons and offer summaries took three and two years respectively.
15. As part of the suggested policy work on options, we recommend further work to understand the international comparisons mentioned in the Emerging Views paper and the time it took to do that work in those countries.

The process suggested by the Commission

16. The suggestion for industry to first implement the measures proposed by the Commission, to be followed by Commission guidelines and then a TCF code would be resource intensive and, in our view, inefficient. It could result in re-work, doing things twice and diverting resources from more impactful work. This includes work operators are doing in the customer experience area and as part of a competitive market place (through the TCF and individually).
17. If the Commission decides to progress issues and solutions outlined in this paper (which we hope would be based on additional policy work, evidence gathering and consumer testing), then we recommend:
- i. Inserting pause points into the process for each issue. In areas where TCF members go ahead and make changes, we should first pause to do some consumer testing and reflect on whether these solutions have been sufficient to address the issues. We may find that guidelines and a code are not necessary. For other issues we may be best to wait for guidelines or a code before taking action. Submissions from TCF members will speak to this point.
 - ii. Not trying to do everything at once. A more manageable approach would be to progress one issue, or package of related issues, at a time.

An alternative process that could bring in the bigger picture

18. TCF members are committed to making improvements in the product disclosure area and would like to suggest an alternative process for doing this.

19. We already have scheduled reviews of the existing broadband product disclosure code and broadband marketing code, due to take place in 2023. This work will enable us to look at the bigger picture, bring together related work, and consider some of the issues raised in the Commission's Emerging Views paper. This process could enable us to do the work once and do it well. It is our preferred approach.
20. However, we will not be able to do this important review work (and progress other work on customer experience and a competitive market place) if we need to focus on responding to the issues in the Emerging Views paper. Especially if each topic results in code development. It is not just a case of the TCF having enough people on its team, the issue is more about the time our members, including subject matter experts, need to contribute effectively to each piece of work.

D. Next steps

21. The TCF is happy to answer any questions the Commission might have on the views set out in this submission. Individual members will be making more detailed submissions on the proposals in the Emerging Views paper.