

# Improving Retail Service Quality

## Statement of Process

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## Introduction

### Purpose of this paper

1. This statement of process paper (**process paper**) sets out the Commerce Commission's (the **Commission's**) intended approach to our retail service quality (**RSQ**) work in 2021.
2. The process paper is to inform stakeholders as to how they can keep up to date with progress and contribute to our RSQ work programme.
3. All references in the process paper are to the Telecommunications Act 2001 (the **Act**) unless stated otherwise.

### Background

4. The Commission is New Zealand's competition, consumer and regulatory agency. We enforce competition, fair trading and consumer credit contracts law. We also regulate a number of industries including the telecommunications sector.
5. One aspect of our consumer focussed responsibilities is Part 7 of the Act, which addresses specific consumer matters in telecommunications markets and sets out, among other things, provisions to improve telecommunications RSQ to reflect the demands of end-users.
6. Retail service quality is the quality of retail service provided to an end-user of a service. It includes matters such as customer service, contract issues, product disclosure, billing, switching, service performance, speed and availability.<sup>1</sup>
7. Part 7 sets out provisions for us to:
  - 7.1 issue guidelines on RSQ codes;<sup>2</sup>
  - 7.2 review industry RSQ codes;<sup>3</sup> and
  - 7.3 create Commission RSQ codes.<sup>4</sup>
8. An RSQ code means a code of conduct relating to RSQ that applies to the provision of one or more types of telecommunications service.<sup>5</sup> The purpose of an RSQ code is to improve RSQ to reflect the demands of end-users of telecommunications services.<sup>6</sup>
9. Section 9A also requires us to monitor RSQ and to make information available in a way that informs consumer choice.<sup>7</sup>

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<sup>1</sup> Telecommunications Act 2001, s 5.

<sup>2</sup> Telecommunications Act 2001, s 234.

<sup>3</sup> Telecommunications Act 2001, s 235.

<sup>4</sup> Telecommunications Act 2001, s 236.

<sup>5</sup> Telecommunications Act 2001, s 5.

<sup>6</sup> Telecommunications Act 2001, s 233.

<sup>7</sup> Telecommunications Act 2001, s 9A(1)(e) and (f).

10. On 29 October 2020, we published an open letter “Improving Retail Service Quality for Consumers” informing stakeholders of our intention to ramp up our efforts to improve RSQ for telecommunications consumers using our powers under Part 7.<sup>8</sup>
11. The open letter invited views from consumer and industry stakeholders on pain points and how RSQ could be improved to better reflect consumer demands. Pain points are issues that consumers experience with their telecommunications retailer.
12. In our open letter, we outlined our proposal to gather information on consumer pain points by seeking views from industry, holding workshops and conducting a survey. We also said we would consult on key consumer pain points and proposals for resolving them in March 2021.
13. We have made significant progress with our information gathering and analysis on consumer pain points. However, we have decided to extend our timeframes to allow enough time to complete our key process steps.
14. As a result, we have amended the dates and expanded upon the process steps for the Part 7 work we will undertake in 2021.

### **Key process steps and how you can contribute to our RSQ programme**

15. Our programme seeks to engage and gather information from a range of stakeholders to inform our analysis and prioritisation of pain points and the direction of our Part 7 work programme. This includes telecommunications industry service providers, consumers, consumer advocacy groups, government departments and other interested parties or market participants.
16. We will gather information in a range of ways, including public consultation, conversations in person or over the phone, meetings, seminars and workshops, social media monitoring and correspondence through letters and emails. We may also gather information through voluntary or compulsory information requests. We aim to discuss with parties the information we require and the most practical way to gather that information, before any information requests are issued.
17. We aim to be fair and reasonable with our requests for information and the deadlines we set for parties to respond to our requests. In doing so, we intend to adopt a flexible approach and tailor the form of our engagement to individual circumstances. See our Transparency Statement for more details:  
<https://comcom.govt.nz/about-us/our-policies-and-guidelines/transparency-statement>
18. Attachment A sets out more detail on how we will deal with information we gather.

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<sup>8</sup> A copy of the open letter is available at [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0023/227354/Improving-retail-service-quality-for-consumers-Open-letter-29-October-2020.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0023/227354/Improving-retail-service-quality-for-consumers-Open-letter-29-October-2020.pdf)

19. Our timeline and indicative dates, including key opportunities for you to contribute to our RSQ work programme are outlined in Table 1.

**Table 1: Key process steps for Improving Retail Service Quality in 2020/2021**

Key process steps	Description	Expected timing	How you can contribute and remain informed
<b>Information gathering and analysis October 2020 – July 2021</b>			
Open letter on improving RSQ for consumers	<a href="#">Open letter</a> published indicating our intention to ramp up our activities under Part 7 and inviting views on how to improve RSQ to better reflect consumer demand.	Open letter published: 29 October 2020  Views on pain points by: 26 February 2021  Completed	Views on consumer pain points were sought via our submission portal and feedback form.  Submissions and a summary of the consumer feedback form responses are available at <a href="https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality">https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality</a>
Meetings with consumer groups	1:1 sessions with consumer groups on issues raised in the open letter.	November 2020  Completed	
Workshops with consumer advocacy groups	Workshops in Auckland, Wellington, Masterton and Christchurch with representatives from 17 community groups.	25 November 2020 and 8 to 11 February 2021  Completed	The workshops will inform our decisions to prioritise pain points. You will have an opportunity to comment on our draft prioritisation paper.  A summary of the workshops is available at <a href="https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality">https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality</a>
Consumer survey	Conduct a survey of New Zealand consumers' RSQ experience using social and market research organisation, Research NZ.  The survey will use a statistically significant sample, representative of telecommunications consumers.	February - July 2021	We will publish the consumer survey results on our website. The consumer survey will inform our decisions to prioritise pain points. You will have an opportunity to comment on our draft prioritisation paper.
Pain point analysis and data gathering	Undertaking analysis activities to inform our draft prioritisation paper.	March – July 2021	

Key process steps	Description	Expected timing	How you can contribute and remain informed
<b>Prioritising pain points July – October 2021</b>			
Draft prioritisation paper	Publish our draft prioritisation paper with preliminary views on the RSQ pain points we will prioritise.	29 July 2021	<b>You will be invited to comment</b> on our draft prioritisation paper via our submission portal and feedback form.
Submissions on draft prioritisation paper	Period for parties to submit on our draft prioritisation paper.	4 weeks from August 2021	The Commission submission portal will be made available for submissions. Submissions will be published on our website.
Industry workshops	Industry workshops for stakeholders to discuss pain points.	Mid – late August 2021	We will provide further details.
Cross-submissions on draft prioritisation paper	Period for parties to respond to submissions on the draft prioritisation paper.	2 weeks from early September 2021	The Commission submission portal will be made available for cross-submissions. Submissions will be published on our website.
Consumer engagement activities	Consumers provide feedback on the draft prioritisation paper.	During draft prioritisation paper consultation period	We will provide updates on opportunities to contribute. Submissions will be published on our website.
Final prioritisation paper	Publish final prioritisation paper on our website.	By mid- October 2021	

20. In late 2021 and early 2022 we will undertake activities to identify and test potential solutions to address our prioritised RSQ pain points including our intended implementation work plan. We will provide an update on the opportunities to contribute to the identification of solutions and their design and implementation.
21. These are indicative process steps and dates may change. We anticipate providing further details on specific steps and key opportunities for you to contribute to the work as it progresses.
22. We may use the information we receive in relation to our RSQ work programme for our other statutory functions including investigations, enforcement and court proceedings (for example, under the Fair Trading Act 1986 and the Commerce Act 1986).
23. We may also address specific RSQ or other consumer matters ahead of, or alongside this RSQ work programme. This may include identifying new issues, or isolating

existing issues, and exercising our statutory powers to implement solutions, as and when appropriate.

24. We will be providing updates on our RSQ work programme on our website <https://comcom.govt.nz/regulated-industries/telecommunications/projects/retail-service-quality>.
25. If you would like to be kept informed and receive updates on our RSQ work, and are not currently part of our telecommunications update list, please subscribe by emailing [regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz).

## Attachment A: How we deal with information we gather

26. The information in this attachment is general and not exhaustive. It is not a statement of the law and is not intended to have legal effect. We will apply it flexibly according to the circumstances and our approach may evolve over time. We may therefore revise it from time to time.

### How we use information

27. We are committed to dealing with all information we gather responsibly. This means that we will:
- 27.1 use information only as allowed by law; and
  - 27.2 take steps to ensure that we appropriately protect private, confidential or commercially sensitive information against disclosure.
28. In doing so, we are required to balance your rights and expectations as to the confidentiality of the information you provide against:
- 28.1 the need for us to effectively and efficiently complete our RSQ work programme according to our functions under the Act; and
  - 28.2 our legal obligations under the Official Information Act 1982 (**OIA**) in particular, the principle of availability of information.<sup>9</sup>
29. We use information we collect for the purposes for which it was obtained.
30. However, where information disclosed to us gives rise to concerns that one of the other laws we enforce has been breached, we can use information sought by us or given to us for our other statutory functions, including opening an investigation, taking enforcement action and court proceedings.
31. In such a situation, we can share the information within the Commission, on the same terms as it was collected.

### How we protect confidential information

32. We recognise the need to ensure that parties can have confidence in our use and retention of information, including our commitment to respecting as far as possible any privacy, confidentiality, or commercial sensitivity attached to the information.
33. Some of the information that we receive in the course of carrying out our RSQ work programme (whether provided voluntarily or under compulsion) may be information that is not otherwise in the public domain. Common kinds of confidential or sensitive information include:

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<sup>9</sup> Official Information Act 1982, s 5.



- 33.1 information that if released would prejudice the commercial or privacy interests of the supplier or the subject of the information;
  - 33.2 source-sensitive information, such as insider or whistle-blower information where it may be important that the source's identity is protected; or
  - 33.3 information which, if released, would prejudice the supply of information to the Commission.
34. Where personal information is concerned, we will take care to meet our obligations under the Privacy Act 2020.
35. As far as confidential information is concerned, there are a number of ways that we may respond to a request that information is treated as confidential:
- 35.1 We may consult with the provider of the information before we reach a decision. We may ask that they reconsider part or all of the confidentiality claimed.
  - 35.2 We may request that 'public' copies of documents or information are provided, with sensitive material redacted for Commission use only.
  - 35.3 We may request, or prepare, a summary of the documents or information that enables testing of it to occur without releasing sensitive material.
  - 35.4 Where you provide us with information that you consider is confidential or commercially sensitive, you should clearly assert that qualification when (or before) you provide the information to us.
  - 35.5 We will not always accept at face value your assertion that information is confidential or commercially sensitive, and we may test this with the provider of the information.
36. We are unlikely to accept 'blanket' claims of confidentiality over a suite of information. We may ask parties to provide further reasons about why information requires protection against release.
37. Where we want to test one stakeholder's information with another, we will consider any assertions of confidentiality before we make a decision about disclosing the information. We will also consider whether we can satisfactorily test the information by asking questions based on the confidential information, but without disclosing the information itself.
38. We will not disclose any information we consider to be confidential or commercially sensitive in a media statement, public report, or in response to a request, unless there is a countervailing public interest in doing so. However, such cases are likely to be rare.
39. When the Commission receives a request for information which covers confidential or commercially sensitive material that has been provided, we generally consult with

the parties that provided, or are the subject of, the information. We do this to confirm that relevant confidential or commercially sensitive information has been identified and to obtain parties' views before making our decision on the request.

### **How we respond to Official Information Act requests**

40. The OIA provides the framework for disclosure of the information that we hold. Under the OIA all information is to be made available unless good reasons exist to withhold it. This is known as the principle of availability.<sup>10</sup>
41. We do not need to receive an OIA request for information in order for the principle of availability to apply. We can release information that in our assessment should be made publicly available.
42. There are a number of reasons that we may withhold information from disclosure in response to an OIA request. These include, most relevantly, where:
  - 42.1 release would prejudice the maintenance of the law;<sup>11</sup> and
  - 42.2 release would be in contempt of court.<sup>12</sup>
43. In other cases we must undertake a balancing exercise. This includes, most relevantly, where withholding the information is necessary to protect the privacy of natural persons; or where release would unreasonably prejudice the commercial position of the supplier or the subject of the information.<sup>13</sup>
44. If we consider that any of these potential reasons for withholding the information apply, we must still undertake a balancing exercise and consider the public interest in release.<sup>14</sup> As the principle of availability applies, the information may only be withheld if the potential harm from releasing it is greater than the public interest in disclosure. This 'balancing exercise' means that in some cases information can be released where nonetheless there is some possible harmful effect that might appear to justify withholding it.

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<sup>10</sup> Official Information Act 1982, s 5.

<sup>11</sup> Official Information Act 1982, s 6(c).

<sup>12</sup> Official Information Act 1982, s 100.

<sup>13</sup> Official Information Act 1982, s 9(2)(a).

<sup>14</sup> Official Information Act 1982, s 9(1).