

Summary of amendments to *Marketing alternative telecommunications services during the transition away from copper Guidelines*

This document summarises the significant proposed amendments to the Commission’s current *Marketing alternative telecommunications services during the transition away from copper Guidelines* and the reasons for these proposed amendments. These changes should be read in conjunction with our Marketing Alternative Services Guidelines Review report (**Review Report**) as these amendments are proposed to address risks/issues identified in that report.

New additions to the Guidelines (highlighted in yellow in the Guidelines)

ID	Category	Defined Term, Principle, Explanatory Comment	Statement & page reference	Reason for Amendment
1	New defined term	Broadband – means a network service or connection providing “always on” access to the Internet and high-speed connectivity.	Part 1, General, Para 8, pg 6	We have replaced the term “alternative telecommunications services” with “Broadband” where appropriate in the Guidelines for clarity.
2	New defined term	Consumer – has the same meaning as given in section 232 of the Telecommunications Act 2001	Part 1, General, para 8, pg 6	We have defined “consumer” in the Guidelines for clarity, and consistency with the Act.
3	New defined term	Personas – means in relation to broadband speed advertising the practice of indicating the types of activities that can be undertaken by different numbers of people in the same household on different plans. These activities can include browsing, email, downloading media file, and steaming music/movies in standard and high-definition quality.	Part 1, General, para 8, pg 7	Moved from explanatory comments to definitions for consistency.
4	New principle	RSPs should tell consumers what technology options are available at their address from that RSP when joining or switching Broadband services or technologies.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (b), pg 8	The Review Report found that our expectations in this area were not clear. This principle was therefore added so that expectations are clearer for RSPs that we expect consumers to be presented with all the options available at their address from that RSP.

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5	New principle	RSPs should present the Broadband services they offer in a consistent way to enable effective comparison and choice by consumers.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (c), pg 8	The Review Report found that our expectations in this area were not clear. This principle was therefore added so that expectations are clearer for RSPs that the marketing of broadband should be consistent across technology and plan types to ensure that consumers can easily make fully informed choices.
6	New explanatory comment	For example, if an RSP chooses to show “fibre” and “wireless” services as separate categories on its website, with a separate link to each category, the link to “fibre” should not also contain wireless broadband offerings. The services in each category should also be arranged and presented in a consistent way (such as lowest price to highest price).	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (c), pg 8	This new explanatory comment is associated with the amendments noted at ID line 5.
7	New explanatory comment	Additionally, if an RSP chooses to have an individual webpage dedicated to one type of Broadband service (such as “wireless”), then it should also have individual webpages for other Broadband services offered (such as “Fibre”, “Hyperfibre”, or “Satellite”) to be consistent.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (c), pg 8	This new explanatory comment is associated with the amendments noted at ID line 5.
8	New principle	Where a Broadband service is only available in limited geographical areas, this limitation should be stated prominently in any marketing outside the relevant areas, particularly in national marketing.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (d), pg 8	Previously in the Guidelines as an Explanatory Comment. Moved to a principle to make expectations clearer for RSPs.
9	New principle	RSPs with differential sales incentive structures should have policies addressing the risk of misselling and processes for remedying any misselling that occurs.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (h), pg 9	Added to address the risk highlighted in our Review Report created by some RSPs incentivising their staff differently for different technologies
10	New explanatory comment	Incentive structures that reward agents for selling one service (such as wireless broadband) over another (such as fibre) create the risk of misselling to consumers.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (h), pg 9	This new explanatory comment is associated with the amendments noted at ID line 9.

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11	New explanatory comment	For example, when agents are rewarded more for selling wireless broadband, they may be more inclined to steer a consumer towards a wireless broadband service, even though fibre would be better for the consumer's needs. There is also the risk of consumers being signed up to wireless broadband despite asking for fibre.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (h), pg 9	This new explanatory comment is associated with the amendments noted at ID line 9.
12	New explanatory comment	RSPs should recognise and address the conflict of interest created by differential incentive structures in their policies and training and ensure they have procedures in place to remedy any misselling that occurs.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (h), pg 9	This new explanatory comment is associated with the amendments noted at ID line 9.
13	New explanatory comment	Remedying misselling could include moving the consumer not the most appropriate service, compensating the consumer and recovering the commission paid to the agent.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (h), pg 9	This new explanatory comment is associated with the amendments noted at ID line 9.
14	New principle	Any modem supplied by an RSP as part of a marketed plan should be capable of delivering the marketed speed.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (j), pg 10	This was previously in the Guidelines as an Explanatory Comment. Moved to a principle to make expectations clearer for RSPs.
15	New principle	RSPs should ensure that existing customers have the usage and spend information required to meaningfully compare different services and service providers, including access to their Broadband usage and spend details over a minimum period of 12 months.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (n), pg 11	The Review Report found that while some RSPs refer customers to their usage and spend information in direct communications, not all RSPs are providing 12 or more months of usage and spend information.
16	New explanatory comment	Consumers need to know their Broadband usage and spend over a period of at least 12 months to make fully informed comparisons and choices across plans and providers allowing for seasonality.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (n), pg 11	This new explanatory comment is associated with the amendments noted at ID line 15.
17	New explanatory comment	We also encourage RSPs to provide an annual summary of their usage and spend along with a prompt to consider alternative options. The annual summary is likely to be most useful to consumers if sent on the anniversary of the consumer joining or moving to a new plan.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (n), pg 11	This new explanatory comment is associated with the amendments noted at ID line 15.

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18	New principle	RSPs should always use MBNZ speeds in appropriate marketing when MBNZ speeds are available so that consumers understand what they can expect before making their purchasing decision.	Part 2, General Broadband Marketing Guidelines, outcome 1, principle (p), pg 11	The Review Report found inconsistent use of MBNZ speeds. This principle has been updated to make expectations clearer for RSPs that MBNZ speeds should be provided to consumers if they are available.
19	New explanatory comment	Speed indicators are useful to consumers when comparing plans and should always be provided in appropriate marketing whenever available from MBNZ.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (p), pg 12	This new explanatory comment is associated with the amendments noted at ID line 18.
20	New explanatory comment	Providing speed indications for some services (such as fibre) but not other services (such as wireless broadband) when they are published by MBNZ is unhelpful to consumers and risks being misleading by omission. Consumers should not be left to assume or guess or search for the undisclosed speeds themselves.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (p), pg 12	This new explanatory comment is associated with the amendments noted at ID line 18.
21	New explanatory comment	Appropriate marketing would include places where service details are routinely included, such as plan pages or retail brochures, but would not include mass marketing communications, such as billboards, radio adverts, TV adverts or banner adverts.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (p), pg 12	This new explanatory comment is associated with the amendments noted at ID line 18.
22	New principle	RSPs do not suggest MBNZ testing is underway unless that is actually the case.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (r) (iii), pg 13	This was previously in the Guidelines as an Explanatory Comment. Moved to a principle to make expectations clearer for RSPs.
23	New explanatory comment	The Commission has developed rules that apply to the use of embedded testing agents in proprietary modems and approved the use of this for reporting Spark's broadband services. This option is available to other RSPs.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (r), pg 13	This new explanatory comment was added due to the roll out of embedded testing agents by Spark, and to clarify that this is available for other RSPs.
24	New explanatory comment	For the avoidance of doubt, RSPs should not advertise that any service (such as 5G wireless broadband) is "under testing" (or similar) unless enough white boxes have been deployed to enable testing to take place under the MBNZ programme. Claims to the contrary risk being misleading.	Part 2, General Broadband Marketing Guidelines, outcome 1, following principle (r), pg 13	This new explanatory comment was added to make expectations clearer for RSPs.

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25	New outcome	Outcome 2: Consumers should be able to exit a Broadband Service that does not meet expected requirements	Part 2, General Broadband Marketing Guidelines, outcome 2, pg 14	This new outcome was added to better group related principles relating to when consumers should be able to exit a broadband service that does not meet expected requirements.
26	New principle	<p>A broadband service will be deemed to materially fail if it more often than not fails to meet the following performance levels or when an RSP otherwise agrees it has materially failed:</p> <ul style="list-style-type: none"> • Fibre: consistently less than 70% of average MBNZ speeds • DSL: consistently less than 50% of average MBNZ speeds • HFC: consistently less than 70% of average MBNZ speeds • Wireless: consistently less than 70% of average MBNZ speeds where available • Satellite: consistently less than 70% of average MBNZ speeds where available 	Part 2, General Broadband Marketing Guidelines, outcome 2, principle (b), pg 14	<p>Our Review Report found that definitions of “materiality” varied across RSPs and that consumers are unlikely to know, without consulting their provider, if their service would be regarded as materially failing to deliver.</p> <p>We consider definitions should be standardised and have based these speeds on what providers have told us they are currently using as benchmarks.</p>
27	New principle	RSPs should provide information regarding materiality thresholds in a way that is transparent and easy to understand for consumers.	Part 2, General Broadband Marketing Guidelines, outcome 2, principle (c), pg 14	As per the reasoning provided in ID line 26.
28	New explanatory comment	All issues should be assessed on a case-by-case basis by RSPs having regard to the materiality thresholds specified above	Part 2, General Broadband Marketing Guidelines, outcome 2, principle (c), pg 14	This new explanatory comment is associated with the amendments noted at ID line 26.
29	New principle	RSPs should provide consumers with clear information on how to raise and resolve issues in the transition away from copper.	Part 3, Marketing Broadband Services during the transition away from copper, outcome 3, principle (a), pg 20	Copied from the General Broadband Marketing Guidelines section and adjusted to apply to copper transition to make expectations clearer for RSPs.
30	New principle	RSPs should accept customer complaints about the transition, and all such complaints should be dealt with promptly.	Part 3, Marketing Broadband Services during the transition away from copper, outcome 3, principle (b), pg 20	This was previously in the Guidelines as an Explanatory Comment. Moved to a principle to make expectations clearer for RSPs.

Principles & comments that were moved following the review

These principles have been moved to provide better clarity for RSPs on which principles relate to general broadband marketing and which principles relate to Copper Transition.

ID	Category	Principle	Previous statement & page reference	New statement & page reference
1	Moved principle	RSPs should inform consumers that they are able to keep their phone number when changing service providers.	Outcome 2, principle (c), pg 13	Part 2, General Broadband Marketing Guidelines, Outcome 1, principle (i), pg 10
2	Moved principle	RSPs should ensure that existing customers have the usage and spend information required to meaningfully compare different services and service providers.	Outcome 2, principle (d), pg 13	Part 2, General Broadband Marketing Guidelines, Outcome 1, principle (n), pg 11
3	Moved principle	RSPs should encourage consumers to use independent information to see what Broadband services are available at their location.	Outcome 2, principle (b), pg 13	Part 3, Marketing Broadband Services during the transition away from Copper, outcome 2, principle (b), pg 19
4	Moved principle	RSPs should prompt all consumers to use the information available to them to decide what Broadband service is best for meeting their requirements.	Outcome 2, principle (e), pg 14	Part 3, Marketing Broadband Services during the transition away from Copper, outcome 2, principle (c), pg 19
5	Moved principle	RSPs should allow consumers to move to a different service, or exit their service, without penalty, if the selected service materially fails to meet expected requirements and this cannot be remedied within 30 calendar days of a customer complaint.	Outcome 3, principle (g), pg 17	Part 2, General Broadband Marketing Guidelines, Outcome 2, principle (a), pg 14
6	Moved principle	RSPs should provide consumers with clear information on how transitioning from copper-based services to alternative telecommunications services could impact the operation of their in-home equipment, in accordance with the Commission 111 Contact Code.	Outcome 4, principle (a), pg 21	Part 2, Marketing Broadband Services during the transition away from Copper, Outcome 1, principle (h), pg 18
7	Moved principle	RSPs ensure vulnerable consumers are made aware of their rights, in accordance with the Commission 111 Contact Code.	Outcome 4, principle (b), pg 21	Part 2, General Broadband Marketing Guidelines, outcome 4, principle (a), pg 15
8	Moved principle	RSPs provide consumers with clear information about the costs or fees associated with transitioning from copper-based services to alternative telecommunications services, in accordance with the Broadband Product Disclosure Code.	Outcome 4, principle (c), pg 21	Part 3, Marketing Broadband Services during the transition away from copper, outcome 1, principle (i), pg 18

Principles & comments that were removed

ID	Category	Principle/Comment	Previous statement & page reference	Reason for Amendment
1	Removed comment	Spark has indicated it intends to provide similar notice periods for wholesale PSTN withdrawal as apply to Chorus under the Copper Withdrawal Code	Outcome 1, comment following principle (a), pg 10	This comment is no longer applicable.
2	Removed principle	RSPs should inform consumers of the existence of the RSQ code produced from these Guidelines, and what consumers should expect from their RSP under it.	Outcome 2, principle (c), pg 13	This comment is no longer applicable. No RSQ code has been produced at present. Should an RSQ code be produced in future, the obligations under that code would apply to RSPs, irrespective of the expectations prescribed in these Guidelines.
3	Removed comment	This principle applies when RSPs choose to use speed indications in their marketing.	Outcome 3, comment following principle (d), pg 16	We have replaced this comment with more detailed comments to ensure that expectations are clearer for RSPs.
4	Removed comment	The TCF could agree an interim approach to speed indications for 5G wireless broadband services that could be used by RSPs until MBNZ results become available	Outcome 3, comment following principle (f), pg 17	This comment is no longer applicable. The intent of this comment is captured in Principle 1 (r).
5	Removed comment	The TCF could develop a standard test or approach to the issue of materiality for the purpose of implementing these guidelines	Outcome 3, comment following principle (g), pg 18	This comment is no longer applicable. We have chosen to specify speed definitions in Principle 2 (b).