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By email

Ngā mihi mahana kia koutou katoa

## **Addressing transparency and inertia issues in the mobile market**

### *Summary*

1. We have sought to improve our understanding of the mobile telecommunications market through our 2019 mobile market study and our 2020 review of mobile consumer bills.
2. This work has highlighted issues relating to transparency and consumer inertia in the residential mobile market. These issues appear to have resulted in significant overspending by some consumers and suggest that action is required to improve consumer outcomes.
3. We are therefore writing to seek feedback from the three mobile network operators – Spark, 2degrees and Vodafone (**operators**) – on our mobile bill report and to ask those operators to confirm their plans for addressing transparency and consumer inertia issues.
4. We set out below our expectation that operators should take steps to improve consumer outcomes by:
  - 4.1 **increasing the usage information made available to consumers** – to address transparency issues and empower customers to make meaningful choices;
  - 4.2 **implementing measures to help ensure customers are on plans that best reflect their actual requirements** – to address inertia issues and protect customers from overspending; and
  - 4.3 **initiating work on a “consumer data right” for the industry** – to enable consumers to share their usage and product information with competitors and comparison services if they choose to do so.
5. We will review operator responses to this letter, and assess whether further action is required, in the Retail Service Quality work programme that will shortly be launched under Part 7 of the Telecommunications Act 2001 (the **Act**).

*Why did we undertake the mobile bill review?*

6. Our mobile market study noted that residential mobile consumers do not compare mobile offers, switch plans or change providers very often. Specifically:
  - 6.1 68% of consumers never or only rarely consider their mobile options; and
  - 6.2 54% of consumers have not switched between service providers in the last five years.<sup>1</sup>
7. The market study concluded that there may be a degree of consumer inertia and that consumers may be unaware of other retail offers available that might better meet their needs.
8. We therefore commenced a review of consumer bills for the three mobile network operators, under section 9A of the Act, to understand:
  - 8.1 the usage and expenditure patterns of residential consumers in the mobile market; and
  - 8.2 the extent to which these consumers could save money by changing their purchasing behaviour.
9. We are grateful to operators for providing anonymised consumer bills for the purposes of this review.
10. The results of this review are set out in the report by Schiff Consulting, the independent economic consultant engaged to undertake the study, entitled *“Analysis of Mobile Bills – Report for the New Zealand Commerce Commission”*. The report is being published today alongside this letter.
11. We welcome feedback on the report by email to [regulation.branch@comcom.govt.nz](mailto:regulation.branch@comcom.govt.nz). Please ensure that any comments are provided by 30 September 2020. We will take account of comments when reviewing operator responses on the issues covered in this letter and when considering next steps in the Part 7 work programme.

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<sup>1</sup> Commerce Commission “Mobile Market Study – Findings” (26 September 2019) Figure 15, Figure 17. These figures are sourced from Consumer NZ’s 2018 survey of mobile consumers.

### *What we have found*

12. Based on the mobile bill review and the mobile market study, we consider that there are transparency and inertia issues that may result in significant value being lost by some consumers.<sup>2</sup>
13. Notably, of the nearly 80,000 anonymous consumers in the bill review sample:
  - 13.1 64% of consumers who bought base plans did not switch during the 12 month period;<sup>3</sup>
  - 13.2 just over 25% of postpaid consumers could save an estimated average of \$11.58 a month by moving to a cheaper base plan that would still cover their usage (a saving of 23% of the average postpaid monthly spend); and
  - 13.3 around 7% of residential consumers spend a relatively high amount on mobile services, given their usage. These consumers could potentially save an average of \$48.65 per month.
14. We recognise that some packages include add-ons and extras (such as “endless data”, handset discounts, content streaming and other benefits), which can make it more difficult for consumers to compare plans.
15. Nevertheless, our work has identified a clear need for consumers to have an easily accessible baseline view of their usage and spend information, against which they can determine the value they are willing to attribute to the offered extras.
16. Current app-based usage and spend information varies, with some apps providing trend information and summaries, but over different periods of time and in different formats depending on the operator. These are generally not sufficient for meaningful comparisons on usage and price.
17. Current bill-based information (for postpaid consumers) typically provides even less trend data, and can be difficult to access and assess, particularly offline. It is difficult for consumers to see at a glance trends in usage against quotas, rollover balances or spend on add-ons or casual rates.
18. Overall, there appears to be scope for operators to facilitate greater consumer engagement and sharper comparison of mobile plans, along the lines seen in other sectors such as electricity, where consumers and comparison websites have made good use of the ability to compare electricity pricing and usage parameters.

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<sup>2</sup> The report also noted the large number of products in the market and questioned how readily customers could choose the services that are the best value for them given the number of alternatives and the complexity of such decisions.

<sup>3</sup> This figure is a weighted average; non-switching of base plans is 72% for prepaid and 57% postpaid. These figures exclude consumers who switched base plans between prepaid and postpaid and between providers.

19. Electricity consumers, unlike many telecommunications consumers, generally have at least 12 months of usage information available to them at any one time and can access up to 24 months of data on request.

*Addressing the issues – Transparency*

20. We consider that consumers need to be able to easily see their usage and spend information to help them assess the value they get from their current plan and decide whether to switch to plans that better match their needs, either with their current provider or by moving to a different provider.
21. We would therefore like to see easy access to key information become the norm for all consumers.<sup>4</sup>
22. To this end, our expectation is that operators will take steps to make better data available to their customers and highlight that this information is available. This information should be easy to access and understand at a glance (such as on a table or graph), included in any app or bill, and display:
  - 22.1 at least 12 months of mobile data, voice and SMS usage, including actual usage for each month so the customer can see how their usage varies;
  - 22.2 at least 12 months of carry-over or rollover balances, so the customer can assess how their rollover has changed over time and what might be an appropriate level of allowance for their needs; and
  - 22.3 at least 12 months of consumer spend, clearly showing the amounts spent each month using casual rates, buying add-ons and for base plan purchases.
23. The primary purpose of this information is to provide a clear baseline to enable meaningful comparisons. This will make it easier for consumers to choose a mobile plan that best meets their individual needs, better assess the value of additional benefits (such as Netflix), and enable other parties to assist consumers to choose the right plan. We consider that the operators should initially focus on the information available on their apps, and then address their physical bills to their customers.

*Addressing the issues – Consumer inertia*

24. We also consider that consumers should not be paying for more than they reasonably require and that the persistence of inertia-based “overspend” in some areas of the market is contrary to consumer interests.

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<sup>4</sup> This includes the mobile network operators’ own retail customers as well as their wholesale MVNO customers by making the necessary data available to them.

25. It seems clear that some consumers overestimate their requirements when selecting a plan and, for various reasons, never go back to revisit this decision in light of their actual usage.
26. There is currently no mechanism for correcting this inertia factor that can result in significant welfare losses for consumers and corresponding windfall gains for mobile operators.
27. The absence of a mechanism for correcting such “overspend” contrasts with the position where a consumer is “underspending” and various mechanisms, such as out of bundle charges, act to encourage the consumer to spend more.
28. Our expectation is that operators will take steps to address this imbalance by putting in place “right-sizing” or “right-planning” measures to guard against overspending.
29. To this end, we would like to see operators more proactively managing the best interests of their own customers, including by monitoring usage against spend and helping to keep customers on plans that best reflect their actual requirements.

*Bringing the solutions together – consumer data rights*

30. Finally, we note the moves to introduce consumer data rights in various countries around the world, as outlined in the recent discussion document issued by the Ministry of Business, Innovation & Employment on this subject.<sup>5</sup>
31. In the telecommunications context, a consumer data right can be thought of as a “data portability” right, which would enable consumers to share their transaction, usage and product information with competitors and comparison services if they choose to do so.
32. Consumer data rights would be expected to have a similar effect to number portability in terms of “unlocking” customer information and empowering consumer choice. This is a potentially powerful tool for addressing transparency and inertia issues and improving competitive outcomes for consumers.
33. We see an opportunity for the industry to assume a leadership position on this issue and encourage the Telecommunications Forum (**TCF**) to initiate a programme of work looking at the design and implementation of a consumer data right in New Zealand.
34. At this stage, we believe an industry-led response through the TCF would be the best way forward on this issue, recognising that this will be a longer term project that needs to be informed by ongoing international developments.

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<sup>5</sup> MBIE “Discussion Document - Options for establishing a consumer data right in New Zealand” (05 August 2020). <https://www.mbie.govt.nz/dmsdocument/11625-discussion-document-options-for-establishing-a-consumer-data-right-in-new-zealand>.

### *Next steps*

35. We hope that operators will see the issues we have identified as important opportunities for improving consumer outcomes and the suggestions we have made as a useful framework for developing individual commercial responses.
36. We encourage operators to develop solutions having regard to experience in other sectors and markets with a view to these solutions becoming points of competitive differentiation between them going forward.<sup>6</sup>
37. We ask that individual operators share with the Commission their plans for addressing these issues, including the timeframes for implementation, and how they propose to measure success.
38. We also ask the TCF to engage with the Commission on its plans for initiating a longer term programme of work on a consumer data right for New Zealand.
39. We would welcome responses in both cases by the end of November 2020.
40. We will review responses to this letter early in our Part 7 Retail Service Quality work programme, with a view to taking more active measures to address these specific pain points for consumers, if required.
41. We will be launching our Part 7 work programme shortly and look forward to continuing our engagement with stakeholders on these and other important consumer issues.
42. In the meanwhile, if there are any questions on any of the matters set out in this letter, please reach out to your usual contact in the Commission's Telecommunications Team.

Ngā mihi



**Tristan Gilbertson**  
Telecommunications Commissioner

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<sup>6</sup> We also expect operators to support the MVNO providers hosted on their networks by making the necessary data available to them