



# Improving Retail Service Quality

## Draft Baseline Report

Spark Submission

Public Version

Commerce Commission

15 October 2021

## Telecommunications Is A Highly Dynamic, Competitive Market Which Generally Provides Great Outcomes For Consumers

1. New Zealand consumers have access to a world leading range of networks, products, and services.
2. As an industry, product innovation goes beyond the 'core' telecoms services of voice, text messaging and broadband to include elements such as on demand content services (Netflix, Spotify etc), free and discounted devices (smart devices, home security products, televisions and appliances etc) and discounted bundles including services from other industries (electricity, gas etc).
3. From a consumer perspective, the telecommunications industry is characterised by continual innovation and technology investment. There have been considerable enhancements to the products and services offered over the last decade including dramatic speed and data allowances increases seen in both mobile and fixed services.
4. Innovation has been supported by a regulatory framework which promotes competition. This competition has led to a market characterised by a dynamic range of options available to consumers from a diverse range of retail providers. Products and services are in turn delivered using a range of different technologies across fixed and mobile networks, and are provided using multiple different wholesale models.
5. We accept that there is still room for improvement in terms of Retail Service Quality, but it is also important to recognise the considerable benefits that competition brings to end-users in these markets. It is important because we need to ensure that Retail Service Quality initiatives do not reduce that dynamic competition by artificially "flattening" the range of services and service bundles available to customers due to an overly myopic preference for competition focussed on one service characteristic (price).

## Balancing Consumer Outcomes With The Promotion Of Competition

6. Innovation and choice can create complexities for consumers. Greater choice and range of services, or service bundles, can lead to some consumers feeling unsure about what products are most suitable for them. But in a market with dynamic competition, providers will respond to that confusion and find a way to correct it while continuing to provide a range of choices for consumers.
7. Regulation, on the other hand, is the opposite of dynamic. It simply cannot respond quickly to changing consumer preferences or purchasing signals and tends towards blunt tools that create blunt incentives on market participants. This can stifle competition by removing incentives to innovate and ultimately results in less dynamic, less competitive, markets.
8. It can also be tempting to conclude that price is the only thing of interest to customers. Spark's own research showed that in the final purchasing decision price

and value made up only a third of people's choices – other factors such as the brand being reliable and trusted, and value-added services are also very important. Our research tells us that services such as Netflix, Spotify etc are highly valued by our customers

9. It would not be a good outcome for consumers if retail regulation had the effect of consolidating product offers to just a few products where the only differential between providers was price.
10. If, however, it is the Commerce Commission's intended outcome to consolidate industry product offerings and focus solely on price, then it should be very clear on this, as this has implications for how the market operates.
11. Whatever approach is intended, we ask that the Commission provides clarity and is careful to balance its obligations to promote competition with its obligations to protect consumers.

### Spark Sees Customer Service As A Market Differentiator

12. Customers' expectations for how easy it should be to order or change new products, or raise issues with their service provider, have rightly increased. Customers are now looking for 'Uber-like' digital experiences where things will 'just work', and they will factor this in when making purchasing choices.
13. In a competitive market, some providers will use service quality as a differentiator to attract customers.
14. At Spark we have been working in this area, with simple, intuitive customer experience being one of our four key capabilities in our 2023 three-year strategy<sup>1</sup>. Customer Experience is a key part of our corporate performance as outlined in our FY21 Annual Report:
  - Over the course of FY21, we further embedded our 'Unified Frontline' operating model. This is an approach to customer experience which sees our customer care and retail teams move between different customer touchpoints (such as online chat, call centres or retail stores) depending on where the customer demand is at the time. It offers our customers skilled assistance through a channel that works best for them, builds the capabilities of our team members, and makes the best use of our customer care resources.
  - We launched the next generation of our MySpark App – the remote control to your life with Spark – alongside a range of new digital features. We now have 600,000 unique MySpark App users, completing 3.6 million interactions per month.

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<sup>1</sup> Spark 2023 3-Year Strategy FINAL <https://investors.sparknz.co.nz/Investor-Centre>

- When combined with a broader shift of customers towards digital self-service interactions, we saw a 32% increase in customer journeys taken digitally across sales and plan changes during the year. This delivered a corresponding 4% decrease in customer interactions with our teams through call centres or online messaging. Our self-service channels empower customers by giving them direct access to trouble-shooting information where and when they need it, without having to wait for assistance from a team member.
- As a result of customer feedback, we enhanced our messaging functionality to enable customers to contact Spark via a messaging service of their choice – such as the MySpark app, WhatsApp, Facebook, Messenger, iMessage or Google chat.
- We continue to invest in our in-store experience with the opening of new stores in Auckland’s Commercial Bay, Cuba Mall in Wellington, and Palmerston North.
- An enabler of better customer experiences is having a deep understanding of our customers and their needs. In FY21 we developed a robust data capability that generates insights into what New Zealanders want and need from our products and allows us to improve the relevance of our offers. We developed approximately 22 core machine learning models that match our products and services to the customers who are most likely to want them, which supported a 16% improvement year-on-year in our marketing efficiency.
- Our Consumer and SME iNPS is the measure we use to determine the level of satisfaction our customers have with their interactions with Spark. At the end of FY21 our iNPS was +23 which is a change of +1 on FY20

15. In our annual results presentation to investors<sup>2</sup> we further noted we:

- Enhanced online messaging functionality for customer care - supporting ~15k conversations per month and delivering a higher iNPS than traditional
- Retired 210 legacy mobile and broadband plans – simplifying product stack and right planning customers.
- Reduced legacy PSTN lines to under 300k in June 2021 with an average of 10k connections migrating off this technology every month.

16. We understand that some of this change may be unsettling for customers, but we aim to make this as transparent and easy as possible. This means being clear with customers about what is happening and why, as well as explaining the options available to them.

17. There is still much work to do in this area, but we are pleased at the progress we are making, which aims to help all of New Zealand win big in a digital world.

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<sup>2</sup> FY21 Results Summary <https://investors.sparknz.co.nz/Investor-Centre>

## Start With Consumer Information

18. The Commission has set out a range of issues in its Draft Baseline Report. We agree the list needs to be prioritised in order to make progress at an industry level. The risk of attempting to address everything at once is that we lose momentum and simply don't have enough industry resource. It will also be difficult to measure the success of individual initiatives if they do not occur in isolation.
19. Our suggestion is that the Commission starts with the Product Disclosure issues as this is core to many of the other issues:
  - a. Customers need to understand what products are being offered so they can compare products between providers.
  - b. Customers need a clear understanding of the products they purchase so they can tell whether what is delivered meets their expectations.
  - c. Clear information on contractual elements of products and plans will provide more transparency on these areas and inform purchasing decisions. This should reduce complaints about high exit fees, early termination fees and generally billing complaints.
  - d. Clear information on things like what to expect during a fibre installation or during a switching process may reduce complaints in these areas
20. Spark has recently revised its fixed broadband plans<sup>3</sup>. When describing our plans we have put considerable effort into making the plans easy to understand, in particular calling out what each plan is particularly good for. We have also switched to using peak time average speeds to describe our plans rather than 'up to' speeds.
21. We recognise this is just one step, and we may need to refine our descriptions in future, but we think Product Disclosure (by which we mean clear customer information on things like products and processes, so customers have a better understanding of what is involved) is a good place to start the RSQ work.

## Other Issues Need Further Refining

22. Many of the other RSQ issues are described in quite high-level terms. This makes it difficult for us to comment on their relative priority as we do not fully understand the scale and scope of each issue.
23. We suggest that before work is started on any of these issues that the Commission does a deeper dive to understand the underlying issues seen.
24. For example:

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<sup>3</sup> Spark's new broadband line-up offers greater transparency, simplicity, and more value for less [https://www.sparknz.co.nz/news/Sparks\\_new\\_broadband\\_line\\_up/](https://www.sparknz.co.nz/news/Sparks_new_broadband_line_up/)

- a. Some of the issues may be caused by a lack of clear information from providers and can be addressed through better product disclosure
  - b. Some of the issues raised may relate to historical issues where we have already made improvements. Customers tend to remember poor experiences for longer than good ones
  - c. The 'high level' RSQ categories may reflect multiple different smaller issues which need to be addressed separately, and this should flow into the overall prioritisation
  - d. Some providers may be better than others, and in some cases the focus should be on addressing the outliers, rather than needing to involve all providers
  - e. Some of the issues may be more related to wholesale input providers rather than retailers
25. It will be important to do this analysis to understand if the issues raised are systemic and something that can only be addressed through formal regulation, or whether they are better addressed by industry self-regulation once they are identified. It will also be important to look at the effectiveness of existing policies and industry codes in a particular area.
26. Prioritisation should also recognise that some issues are easier or quicker to solve than others. For example, implementing new processes can legitimately take years where it requires fundamental changes across the industry, especially where they involve IT and system changes. The Commission should work with industry to understand what timeframes and deadlines are appropriate for different activities. This is likely to require some discovery work with industry before realistic deadlines can be set.

### Not All RSQ Issues Are Within The Control Of Retail Providers

27. The telecommunications market is complex and RSQ interventions should cover all providers who can influence the customer experience.
28. While we accept that many of the RSQ issues identified are within the control of retailers, there are other issues described in the Qualitative Summary Report<sup>4</sup> which are caused by the customer's home setup or devices.
29. For example, RSPs cannot be responsible for customers who do not have the right devices to get the full benefits of the services we offer, or be required to support third party devices (such as independently purchased modems) that we have no control over.

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<sup>4</sup> [https://comcom.govt.nz/\\_\\_data/assets/pdf\\_file/0029/266852/Research-New-Zealand-Qualitative-Summary-Report-16-April-2021.pdf](https://comcom.govt.nz/__data/assets/pdf_file/0029/266852/Research-New-Zealand-Qualitative-Summary-Report-16-April-2021.pdf)

30. Price comparison services are another area outside of our control. We consider price comparison websites should be held to a higher standard of accuracy and transparency as they are present themselves as an independent comparison of services. We encourage the Commerce Commission to look at an accreditation scheme for price comparison services along the lines on the UK approach.

### Fibre Access Companies Can Significantly Influence RSQ And Should Be Core To The Commission's Work

31. The Qualitative Summary report also notes a number of issues caused by the fibre wholesale companies such as property damage or poor equipment location choices when installing fibre. We noted these concerns in our submission on the TDRS review as it is important that customers can raise disputes directly with the party that caused the issue, which is usually best placed to efficiently resolve the issue.
32. Beyond fibre installation issues for new customers, Chorus and the LFCs have considerable influence over RSP RSQ. For example, they market their fibre technology directly to consumers and make public comments – including in their marketing collateral - on competing technologies like fixed wireless. It is important that all providers in the market talk fairly about the relative benefits of technologies and they should be held to the same account as RSPs.
33. A recent example of this is where Chorus made a public announcement<sup>5</sup> on the 1<sup>st</sup> September that it would be increasing speeds for consumers on the Fibre 100 product to 300Mbps. This resulted in media coverage<sup>6</sup>, but was a surprise to RSPs who were still awaiting final confirmation from Chorus of the changes. We are yet to have all the details.
34. Chorus has said it will provide the final details of the changes, including the dates they will be migrating customers. Chorus has said it will provide these details by the end of October with the expected upgrade happening during November. This gives us little time to prepare and schedule the required upgrades needed to our network to ensure customers are not adversely affected by the Chorus changes, and we need time to work with Chorus to agree testing ahead of launch. The timing is particularly challenging with corporate shutdowns and network brownouts during December and January.
35. We saw a similar approach from Chorus to the Fibre 200 upgrades where the period between final announcement to industry and the scheduled implementation date was a matter of weeks.
36. Most of the other LFCs have now announced speed upgrades for their plans, but the latest information on plan upgrades shows that each LFC is taking a different

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<sup>5</sup> <https://company.chorus.co.nz/600000-kiwi-homes-and-businesses-able-benefit-chorus-300mbps-fibre-upgrade>

<sup>6</sup> <https://www.stuff.co.nz/business/126248136/chorus-offers-to-triple-ufb-speeds-for-600000-households-and-firms-for-free>

approach and we are likely to end up with different speeds for the same plan on different LFCs.

37. That makes our product disclosure very difficult as the speed a customer may get on a retail plan depends on what part of the country they will be in. This is a complicated message to share with customers at the same time the Commission is encouraging retailers to display the average peak time speeds to customers – not only have we not got any data on the speeds that customers will actually receive, but the speeds will vary by LFC. Any RSQ product disclosure ensuring we explain these factors fairly to customers, and governing how we explain them, should apply equally to fibre access companies and RSPs.
38. More broadly, the lack of notice of the changes and differences between LFCs is causing us considerable operational complexity which ultimately leads to poor outcomes for consumers as we cannot communicate our approach clearly.
39. The UFB Product Forum is the industry group where changes to products and services are discussed. The group meets monthly. Recently however we have seen this forum bypassed as Chorus and the LFCs have chosen to use only bilateral consultation and notification of changes, rather than following the agreed industry process of bringing decisions back to the forum (even where the detailed discussions have been held bilaterally). Recent examples of Chorus not following the expected process include:
  - a. The Chorus CSA contractual discussions where Chorus ‘consulted’ bilaterally with RSPs before sending its proposed changes to CIP. This discussion did not report back to the UFB Product Forum as expected. Chorus only formally updated the Product Forum at the meeting on 14<sup>th</sup> October 2021.
  - b. The plan changes mentioned above were not initially communicated via the Product Forum.
  - c. Chorus used Force Majeure to fast track its ONT4. While we are happy to fast track this development it should have been discussed via the Product Forum.
40. The lack of accountability for Chorus going forward remains a concern. While the regulatory regime will ensure Chorus offers anchor products, we suspect the majority of RSPs will be consuming non-regulated products which give Chorus much more flexibility on how they manage changes and pricing.
41. We are therefore particularly concerned about the lack of CIP oversight going forward, as we feel the reliance on contractual escalation will not constrain Chorus’ monopoly position. We therefore ask the Commerce Commission to engage with the Product Forum as observers so it can monitor industry behaviour.
42. Chorus and LFCs also seek to influence the retail market through connection incentives and direct to consumer marketing activities. Retailers in a competitive market must, inevitably act on the product and marketing incentives provided by their wholesale providers and these are clearly designed to influence the products

we promote to our customers. For example, we've raised our concerns with the Commerce Commission that Chorus's connection incentives may, amongst other concerns, be a loyalty penalty that is not in consumers' best interests.

43. Finally, it is worth noting that Chorus can directly influence RSQ through a number of mechanisms. For example, earlier this year we saw a significant number of both unplanned and planned outages on Chorus systems which prevented us from being able to effectively help our customers who contact us during these times. While Chorus has been working to do more to manage this better, we still see examples that we have to escalate and get reviewed.
44. Chorus and the LFCs are also essential to fibre transfers. We note that Chorus has not implemented the TCF Fibre Transfer Code which was agreed in 2016, and is looking to amend the current Code so it can use its own alternative process.

## QUESTIONS

1. **Do you agree the proposed key RSQ matters need improving? Please tell us why, or why not.**

We generally agree with the matters identified. Deeper insight is needed into each matter to fully understand the problem which needs addressing and how widespread it is. It is important to identify the problem in detail upfront so the effectiveness of the intervention can be measured.

2. **Do you agree that debt and affordability practices fall within the scope of RSQ? [refer to cl. 52 / 135 - 142] Please tell us why, or why not.**

Spark already has policies in this area and we do not consider this a priority area. If the Commission is to look at this area it should first consider what it considers failures in the existing legal requirements in this area and ensure it does not create a competing set of financial obligations on RSPs.

3. **Do you agree that we should only maintain a watching brief over the matters in paragraph 53? Please tell us why, or why not.**

Agreed. The Commission's RSQ work should be evidence based, and the Commission confirms it has not got sufficient evidence that the list in paragraph 35 need improving at this time. The Commission can revisit the list in future if they do emerge as key issues

4. **Of the proposed key RSQ matters, which ones do you think we should address first? Please tell us why.**

We propose address Product Disclosure first. Transparency of information is key for customers so they can compare plans, confirm what they have purchased is actually delivered and understand industry processes.

5. **Do you think an industry or Commission RSQ code would improve the proposed RSQ matters? Please tell us why, or why no**

Industry is best placed to solve many of the matters raised, provided we have a clear definition of what needs to be addressed, so we support industry codes as the default option.

Commission codes may be necessary if industry cannot reach agreement, or some providers refuse to adopt the Code.

One way of achieving this would be a hybrid approach where a Commission RSQ Code would mandate providers to comply with an industry Code.

A precedent for this can be seen in the Number Portability Determination review where the Commission is proposing to add words which would require parties to the LMNP Terms to adopt policies and processes that are consistent with the Operational and Support Manual for LMNP.

[ends]