

One NZ submission on Retail Service Bundling Guidelines

13 October 2023

Introduction

1. We welcome the opportunity to provide feedback on the Commerce Commission's (**the Commission**) draft Retail Service Bundling Guidelines (**draft guidelines**). We have set out our key considerations and recommendations below.

Clarity on scope

2. The draft guidelines include a definition of 'bundle' and explanatory examples which provide some clarity on what services are in scope of these guidelines. However, the definition and examples are limited and leave room for ambiguity. For example, we understand that mobile connectivity and device bundles are excluded from scope, but it could be interpreted as otherwise. It's important that the guidelines promote increased transparency in respect of the bundling activity that is properly within scope, without extending to instances where multiple elements are offered with a single integrated product of service (for example, WiFi routers offered as an element of fixed connectivity). To avoid misinterpretation, we propose that the Commission clarifies what specific bundled services are in scope of the guidelines.
3. We propose the following 'bundles' to be specified as in scope, provided the offer details are in line with the definition of 'bundle' as set out in the guidelines (e.g. building one service impacts the price of another or the ability to buy one service is dependent on also buying another):
 - a. Broadband and electricity services;
 - b. Mobile and electricity services;
 - c. Broadband and mobile services;

- d. Any bundle that includes a prezzy card or an appliance (or any hardware item that has no logical connection with the service provided) as a joining incentive; and
 - e. Bundle that includes a discounted third-party subscription service (e.g. Spotify, Netflix).
4. Clarifying what services are in scope is important practice when developing TCF industry codes, as it helps ensure that all stakeholders are clear on what is required for operators to be compliant. This approach should be adopted by the Commission when issuing final guidelines, particularly if the Commission intends to monitor industry's compliance with these guidelines on an ongoing basis.

Where additional information is provided

5. We welcome the draft guidelines being non-prescriptive on where exactly the additional information about in-scope bundled services is provided and propose that the final guidelines remain flexible on this matter.
6. We recognise the importance of prominently disclosing relevant information to customers. However, it is also important to strike the right balance between providing relevant information and avoiding information overload. For example, having to provide all details on the bundled plan price and the base rate comparable plan price immediately next to each other in advertising materials, together with other product terms and conditions that must be disclosed, results in consumers having to consider a lot of information. We see some risk that requiring consumers to engage with substantial additional information causes them to disengage with and ignore it or alternatively be confused by the presentation of this information. A better alternative to requiring that substantial additional information is presented in a single location is to embed this information throughout a customer buy journey, with retailers having discretion as to how this is done practically. This is likely to support more effective consumer engagement with the information.
7. Getting this balance right requires providing information at the right points in the customer journey. The exact touch points will differ across providers and providers are therefore best placed to decide where the information should be displayed, accepting the need to provide it in a way that an ordinary consumer is likely to notice and understand.

Timeframes for compliance

8. We request that the Commission provides industry sufficient time to become compliant with the guidelines, meaning at least three months from the publication of the final guidelines. The

Commission intends to publish the final guidelines in December 2023. Most operators have reduced operations from Christmas until at least the middle of January, which the Commission should bear in mind when setting timeframes for compliance.

9. Please contact the following regarding any aspect of this submission.

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