



18 July 2024

Tristan Gilbertson
Telecommunications Commissioner
Commerce Commission

By email: [REDACTED]

Dear Tristan

Mobile Transparency – open letter

Thank you for your update on Commission initiatives to improve the availability of mobile usage and spend information for our customers and proposed way forward.

We have put significant effort into ensuring customers have the information and tools they need to manage their mobile services and spend, including making an always on, up to date summary of usage and spend information available to our customers and launching our award winning Made For You Review (**MFYR**) initiative¹.

We agree that the Commission should close off this retail service quality workstream and focus on monitoring market outcomes through the annual monitoring programme. The market monitoring programme highlights whether key customer demand, investment and pricing outcomes are being achieved.

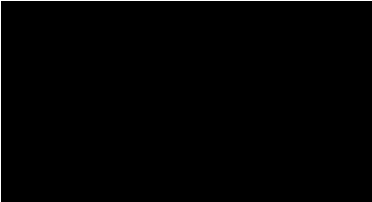
Conversely, in our view, the Commission should be cautious in further partnering, sponsoring or funding of comparison websites without greater oversight of how these sites are operated. Comparison websites form only a small part of the customer purchase decision and a market built

¹ Supreme Marketing Excellence Award at the 2023 TVNZ-NZ Marketing Awards

around such sites, by failing to reflect important aspects of service such as resiliency and innovation, risks undermining critical investment in infrastructure and quality.

Attached is a paper that sets our views out in more detail.

Yours sincerely



John Wesley-Smith
Group Strategy & Regulatory Director

Attachment

Usage and spend information

1. The Commission proposes to close-off this retail service quality stream and focus on monitoring market outcomes through the annual monitoring programme.
2. We support the Commission's proposed approach. The parties have devoted significant resources to this initiative already, and we already see competition and customer demand driving further initiatives. Accordingly, the Commission should allow the existing regulatory settings to apply for a reasonable period before assessing what further actions are required. The market monitoring programme highlights whether key customer demand, investment and pricing outcomes are being achieved.
3. As noted in the Commission's open letter, Spark has made significant enhancements to the usage and spend information available to our customers and launched our successful Made For You Review (**MFYR**) programme.
4. We believe our approach has delivered significantly better outcomes for customers than a static, annual view of customer usage and spend could. The MFYR programme is achieving good results with high customer satisfaction and engagement. For example, []**SPKCI** MFYR has been designed to provide actionable information to our customers in a useful and accessible way.
5. We also set out our concerns to you earlier² relating to the quantity of essential information we are required to present to consumers in marketing and buy journeys, and the risk that consumer benefits will be offset by the loss of clarity. In our view, we are already at risk of regulatory consumer information overload for little, if any consumer benefit.
6. []**SPKCI**
7. While Consumer NZ observes that there has been limited progress since 2022 deployments, we have made significant investments in capabilities outside the scope of the original Commission usage and spend proposal.
8. We operate in a competitive market and expect MNOs will continue to progress related initiatives. As you note in your letter, there are strong commercial drivers for initiatives such as MFYR that reduce churn and increase customers satisfaction. []**SPKCI**
9. Accordingly, we agree that no new regulatory initiatives are warranted, and the Commission should limit further work to monitoring the evolving market. We operate in a highly competitive market and customers demand plans that best meet their needs. Providers will determine their own approach that best reflects this demand, and this will not necessarily be through replicating Spark's MFYR service initiative.

² Spark submission on Improving RSQ – Draft Product Disclosure Retail Service Price and Cost Guidelines 15 March 2024

Comparison websites

10. You have also asked for feedback on whether the current mobile comparison tools are meeting consumer demand and whether we see a case for sponsorship or funding of the NZ Compare mobile comparison website.
11. In our view, the Commission should be cautious in further partnering, sponsoring or funding of comparison websites. We also do not see the case for the Commission to sponsor or fund these websites.
12. We recently set out our concerns³ to the Commission and MBIE relating to the activities of the Broadband Compare website, particularly where the comparison website partners with wholesale telecommunications providers. We noted in our submission to MBIE that the Chorus and Broadband Compare partner website lacks transparency, failing to disclose the nature of the commercial arrangements with website providers or rating system to prioritise results; expected service performance; the basis for the quoted bundle price; or make it clear that a wider range of technology options may be available to customers. Telecommunications providers who are following Commission guidelines and industry consumer codes could not market services in the same way as Chorus and Broadband Compare do.
13. Further, overseas authorities are scrutinising comparison website activities. For example, the ACCC⁴ plans to investigate price comparison websites this year. It is concerned that, while comparison websites can be an important mechanism to inform consumers about price and suitability of products and services, they can also mislead consumers, and not convey the extent of sponsorship and commercial incentives received from suppliers who are featured in the tools. In February 2024 the US Consumer Financial Protection Bureau issued a circular to law enforcement agencies and regulators explaining how companies operating comparison-shopping tools can break the law when they steer consumers to certain products or lenders because of kickbacks⁵.
14. More broadly, we do not support the Commission elevating the place of comparison websites beyond the consumer service they provide today. An acknowledged downside of comparison websites is that they overemphasise price, encouraging a focus on price over quality, which might not always be in the consumer's best interest. A competitive market will inevitably respond with less focus and investment on the very aspects of the service the Commission is seeking to promote, including resiliency and retail service quality.

15. []SPKCI

³ Spark submission to Commission on DRAFT Product Disclosure – Retail Service Bundling Guidelines 13 October 2023 and Spark submission on MBIE Enhancing telecommunications regulatory and funding frameworks discussion paper 19 June 2024

⁴ Ms Gina Cass-Gottlieb, Chair, at the Committee for Economic Development of Australia (CEDA), Thursday 7 March 2024 on the ACCC '2024-25 Compliance and Enforcement Priorities'

⁵ [CFPB Issues Guidance to Rein in Rigged Comparison-Shopping Results for Credit Cards and Other Financial Products | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

16. [] SPKCI

17. In any case, comparison websites make only limited contribution to consumer purchasing decisions. For example, recent IPSOS⁶, Commission commissioned consumer research found that consumers consider a range of service elements - including cost, coverage, bundle options, frequency of issues, and issue resolution – and information sources when making a purchasing decision. IPSOS further found that consumers will consult online reviews (specific provider websites, Google reviews, and Facebook community group pages), use comparison websites, talk friends and acquaintances to understand their experience of customer, and on occasion contact a provider call centre.
18. While comparison websites present as being impartial, they aren't and cannot be impartial in a market where quality and innovation is important as they are built on an assumption of where value for consumers lie. Setting aside concerns that comparison website's commercial incentives inevitably shape their recommendations, and their assessment of consumer value, comparison websites do not reflect the range of consumer considerations identified by IPSOS in its report to the Commission.
19. The Commission should consider any further engagement as part of a balanced approach that recognises the range of service attributes and sources of consumer information. We do not support Commission funding of comparison websites.
20. If the Commission did decide to partner further with comparison websites, it should ensure that the approach is consistent with the Commission RSQ codes and guidelines and that it has oversight of how these sites are operated. In other words, the Commission should ensure any Commission comparison website partner operates in a transparent and fair way and supports its RSQ objectives.

Commission approach

21. The Commission has also asked for feedback on what aspects of its approach to usage and spend information has worked well, what could have been done differently and what this suggests for future RSQ workstreams.
22. We support the collaborative, flexible approach taken by the Commission. The Commission's approach meant that, for example, Spark was able to build the capability for our customers to access an always on, up to date summary report of their usage and spend through MySpark and app. We were also able to apply more resources to enhancing our successful MFYR programme. The consultative approach allowed us to leverage existing initiatives and is more likely - than a top down and regulatory compliance driven approach - to result in outcomes that reflect and promote consumer preferences.
23. Conversely, we believe the Commission should consider further the volume of current and proposed RSQ initiatives, the impact this has on providers who are required to divert resources

⁶ https://comcom.govt.nz/__data/assets/pdf_file/0039/357879/Ipsos-User-Experience-Report-of-Findings-from-Qualitative-and-Quantitative-research-April-2024.pdf

to respond to proposals and the effectiveness of these initiatives for consumers. For example, we already have concerns that the quantity of information we are required to present to consumers in marketing and buy journeys undermines the clarity of that information⁷. With significant initiatives well on the way to being implemented – including the broadband marketing code, TDRS review and mobile coverage reporting – the Commission should now refocus its efforts to monitoring market outcomes through the annual monitoring report.

[End]

⁷ Spark submission on Improving RSQ – Draft Product Disclosure Retail Service Price and Cost Guidelines 15 March 2024