Vodafone Aotearoa response to the Commerce Commission's *Improving Retail Service Quality: Product Disclosure Emerging Views Paper*

7 December 2022

Executive summary

1. We welcome the opportunity to comment on the emerging views paper on *Improving Retail Service Quality: Product Disclosure*. Published by the Commerce Commission (**the Commission**). We also welcome the Commission's early consultation with industry on its emerging views around potential future Retail Service Quality (**RSQ**) interventions. We believe this approach is constructive and will help deliver positive outcomes for consumers.
2. We support the Commission's objective of enabling consumers to make informed choices about telecommunications products and to compare between plans and providers – where this aligns with a need to improve retail service quality and with actual demands of end users of telecommunications services. Vodafone and other service providers are already implementing a range of additional measures that focus on improving customers' experience of retail services. Consumer research carried out by Research New Zealand in 2021 showed that 78% of New Zealand's telco consumers are happy with their provider[1], demonstrating high satisfaction rates among the overwhelming majority of consumers. Nevertheless, Vodafone is not alone in recognising that more work remains to be done. We have a significant programme of initiatives to improve customer experience already in play and these go beyond the measures proposed in the Commission's Emerging Views Paper. We have selected these

[1] Research New Zealand, Consumer Telecommunications Survey, July 2021

initiatives based on their potential to generate greatest improvement for the greatest number of our customers.

3. The Commission notes that '*[i]mproving the ability of consumers to make appropriate comparisons between plans and providers is … critical to improving competition and RSQ*.'[2] While we agree with this as a general principle, it is important that any new RSQ interventions account for the following:
    a. Greater amount of information provided in marketing may not in fact result in greater clarity and better understanding for consumers. Confronting consumers with more information and detail makes sense only if this is useful, correctly interpreted by and actually considered by consumers when selecting services.
    b. The desire for standardisation of how services are presented could alter scope for differentiation and innovation across that market. A drive for standardisation that results in market alignment on the terms and composition of products will result in a loss of choice and competition, ultimately to the detriment of end users. Increased standardisation of information for the purpose of enabling easier comparison by consumers also enables increased transparency between competitors, with greater scope for rational independent alignment using this same information. This dynamic isn't considered in the Emerging Views Paper, and it should be.
    c. The need to ensure that an intervention applies consistently to all market participants providing the services – or performing the activities – that are targeted by it. Tolerance for asymmetric regulation is inconsistent with the Part 7 of the Act and undermines the objectives that the Emerging Views Paper says it is working to achieve.
    d. The Commission's desire for industry to implement changes discussed in the Emerging Views Paper needs to be grounded in a realistic assessment of the end-to-end process that is required to implement each change, the nature and complexity of each of these steps, and the resource requirements to implement each step.
    e. The extent to which new interventions in the Emerging Views Paper are preferable to the existing customer experience improvement initiatives that Vodafone and other service providers already have underway. The same resource is required to implement both new interventions and existing initiatives already being worked on. If the Commission prefers interventions

[2] https://comcom.govt.nz/__data/assets/pdf_file/0035/294659/Improving-retail-service-quality-Product-Disclosure-Emerging-Views-paper-12-October-2022.pdf, p.7

described in the Emerging Views Paper to things we're already working on, then this should be made clear and the impact of delaying or stopping current works should be addressed.

4. Furthermore, any new interventions in the retail market by the Commission must follow the principle of evidence-based policy making. While we agree that some interventions proposed in the Emerging Views Paper are grounded in evidence of the demands of end users, we don't recognise any existing call by customers for some of the others.
5. For the Commission to take steps to improve retail service quality that reflect the demands of end users, it needs to ensure that the measures it proposes do in fact reflect the demands of a reasonable number of consumers, and that it has determined this demand reasonably (i.e. through a robust process, including through robust and statistically valid assessment of consumer demand). We identify below some specific instances where we consider the proposals in the Emerging Views Paper do not meet this standard. While the Commission has discretion as to what methods it uses to develop a robust assessment of consumer demand, we do not consider that consumer views collected via survey questions that lead respondents[3] or a focus group of 6 participants, for example, provide a sufficient evidence base to support interventions that will inevitably alter the provision of services in competitive markets.
6. Below we set out our views on the specific aspects of product disclosure covered in the Commission's emerging views paper. The following table provides a summary of Vodafone's position and proposed next steps.

Commission's proposal	Vodafone's position	Proposed next steps
Comparing average prices	Insufficient evidence provided to support intervention in the form proposed. Significant complexity and impact on industry to implement the proposal. Any price-related intervention must apply to all telecommunications providers. Pre-pay mobile should remain out of scope.	The Commission should not proceed with the proposed intervention. Further evidence to justify intervention in this area is required.
Comparing total costs	Insufficient evidence provided to support intervention in the form proposed. Significant	The Commission should not proceed with the proposed intervention. Further

[3] https://www.surveymonkey.com/r/telco-product-marketing-feedback?fbclid=IwAR2z3gSIHA8b0MNaG_72DjUfR7YvDj5RpiIhlt3G7272MLjXaHP4s7kZZMI

	complexity and impact on industry to implement the proposal. Any price-related intervention must apply to all telecommunications providers. Pre-pay mobile should remain out of scope.	evidence to justify intervention in this area is required.
Comparing plan inclusions	We are open to exploring further standardisation of offer summaries and extension to post-pay mobile with industry through the TCF. Pre-pay mobile should remain out of scope due to significant complexity associated with extending these requirements to pre-pay and little expected customer benefit.	Industry to work on implementing the Commission's recommendations during the review of the Product Disclosure Code in 2024.
Comparing bundled pricing	Intervention must apply to all providers of telecommunications services on a mandatory basis.	The Commission to elaborate on how it foresees bundled pricing transparency should show up for consumers without resulting in unintended consequences for the market. If the Commission decides to proceed with intervention in this area, it should do so through a Commission Code that applies to all providers universally and on a mandatory basis.
Comparing customer numbers	Insufficient evidence provided that this is a product disclosure issue and that there is widespread consumer demand for intervention in this area.	The Commission should not proceed with the proposed intervention.
Comparing mobile coverage	Further assessment is required to be carried out by industry to determine the feasibility of the Commission's proposals.	Industry to assess the feasibility of the Commission's proposals and share a view with the Commission in 2024.

Voluntary vs mandatory codes

7. As a general principle, we believe that retail service quality matters are appropriately dealt with by industry-created codes. In general, industry has demonstrated that it can implement measures quickly and effectively to resolve issues that affect consumers and ensure that these measures account for complexity and avoid unintended consequences However, the advantages of this approach are lost where a portion of industry that is providing the same services or performing the same activities can simply choose to ignore a code. Voluntary codes create a disparity between operators who choose to comply with the regulations and those who don't. Experience of the Broadband Marketing Code has underlined this, with parts of the market remaining non-compliant with its requirements.
8. A number of the proposals in the Emerging Views Paper involve matters that not all providers will agree on, and we expect that some providers will simply decline to comply. For example, for those providers who can subsidise telecommunications services from their other activities, any disclosure that shows the extent to which customers of services are supporting the prices paid by other customers will not be attractive. We expect that these providers would resist complying with a related industry code.
9. Unless interventions on retail service quality matters apply to all providers of the same service or performing the same activity, the Commission will create a two-tier market: regulated and unregulated. This differentiation cannot be justified and would, if permitted, undermine the objectives that are the basis for the proposals in the Emerging Views Paper. The aggregate market share held by the segment of providers that are not TCF members and have to date been unwilling to voluntarily sign up to industry codes is growing. According to the Commission's 2022 Annual Market Monitoring Report, the market share of smaller fixed-line broadband retailers increased from 13% in 2020 to 15% in 2021[4]. Meanwhile, the latest IDC NZ telecommunications tracker for Q2 2022 notes that 'Rest of Market' telecommunications providers (i.e. those excluding Spark, Vodafone, Vocus, 2degrees, Trustpower and Contact Energy) account for approximately 17% of total consumer fixed broadband connections. If you include Contact Energy, who are not currently a TCF member, this share increases to 21%.[5]. Regulatory action that imposes costs and operational restrictions on one portion of the market while leaving a growing cohort immune from these requirements is bad policy, substantively unfair and simply doesn't achieve the Commission's stated goals of intervention.

[4] 2021 Annual Telecommunications Monitoring Report, 17 March 2022
[5] IDC NZ – Fixed and Mobile Datacut 2022 Q2

10. It is also important to ensure that comparison tool providers are subject to the same requirements regarding presentation of broadband and mobile plan information as service providers are. For example, if providers are required to disclose the total minimum cost of an offer, this information should also be included on comparison sites. Again, an intervention must be universal for it to be effective. However, comparison tool providers will only be able to show this information if all providers adopt the requirements.

Comparing prices

11. The Emerging Views Paper states that *'the Baseline Report identified that consumers can find it difficult to compare pricing between plans where there are different plan durations and sign-up offers*.'[6] However, we see no real evidence for this statement in the Baseline Report. Apart from the one reference which we address in the following paragraph, the only other cost/price-related issue references are linked to 'the perception of the costs of switching'[7], 'cost of cancellation'[8], 'confusion around the cost of their service because it is bundled with other services or utilities'[9], costs related to usage requirements[10] and general dissatisfaction with price variations.[11]
12. As it stands, we don't see any evidence to support the case for intervention based on the Commission's view that customers who sign up for 28-day pre-pay mobile plans might not realise that these plans do not in fact cover the full calendar month. The summary of individual feedback disclosed as part of the Commission's *Improving Retail Service Quality Final Baseline Report (9 December 2021)* includes just *one* example of *one* customer raising this as an issue. This does not constitute the strong and compelling evidence required to justify an intervention under Part 7 of the Act. If the Commission has other evidence regarding consumer difficulty in comparing pricing between plans of different duration and containing different offers, then it should reference this.

[6] https://comcom.govt.nz/__data/assets/pdf_file/0035/294659/Improving-retail-service-quality-Product-Disclosure-Emerging-Views-paper-12-October-2022.pdf, p. 10
[7] https://comcom.govt.nz/__data/assets/pdf_file/0023/272930/Improving-Retail-Service-Quality-Final-Baseline-Report-9-December-2021.pdf, para 105
[8] https://comcom.govt.nz/__data/assets/pdf_file/0023/272930/Improving-Retail-Service-Quality-Final-Baseline-Report-9-December-2021.pdf, p. 34
[9] https://comcom.govt.nz/__data/assets/pdf_file/0023/272930/Improving-Retail-Service-Quality-Final-Baseline-Report-9-December-2021.pdf, p.21
[10] https://comcom.govt.nz/__data/assets/pdf_file/0023/272930/Improving-Retail-Service-Quality-Final-Baseline-Report-9-December-2021.pdf, p.31
[11] https://comcom.govt.nz/__data/assets/pdf_file/0023/272930/Improving-Retail-Service-Quality-Final-Baseline-Report-9-December-2021.pdf, pp. 34 and 36

13. An intervention that has been proposed by the Commission would require complex, resource intensive and costly changes to be made to service providers' existing systems and processes, and therefore needs to be properly justified. Part 7 of the Act enables interventions that improve retail service quality to reflect the demands of end-users of telecommunications services. This contemplates interventions based on a) a robust assessment of the *actual demands* of end users; and b) confirmation that these demands reflect those of *a statistically significant number of end users*. Intervention is not justified by reference to the views of small minority of end users, or where what they demand is unclear, particularly where intervention will divert service providers' focus and resources from addressing genuine and widespread customer pain points. The initiatives that Vodafone currently has in its CX improvement pipeline are examples of work that can deliver a meaningful lift in customer experience, but they would need to be descoped to respond to interventions in the Emerging Views Paper.
14. In the Emerging Views Paper, the Commission has referenced other sectors as the basis for the proposals relating to comparing average costs and total costs. It favours *'a standard and consistent reference point to help consumers compare pricing between products'* and by way of example refers to '*unit pricing...in supermarkets enabling consumers to compare the pricing of different products based on a standard unit of measure*.'[12] We do not agree that comparing how retail products are presented in the telecommunications sector with supermarkets or consumer credit providers is particularly helpful – or accurate – given the products and services of these industries are different. We did not find the average monthly cost information presented by any overseas telecommunications providers.
15. While it may be easy to provide a consumer with the dollar per kilogram/litre price of any supermarket SKU, telecommunications services are typically purchased in a range of different combinations or packages: fixed, mobile or converged, with further varieties within each combination depending on the specific plans selected by consumers and any add-ons to these plans. Prices and costs are determined by the combination/ package of discrete items – not by the price and cost of the individual prices of fixed items or set quantities. This poses a practical challenge to service providers' ability to provide a "reference price". It is not possible to apply any meaningful reference price across combinations - given their diversity, this would simply be too complex. While a reference price could in principle be provided for each individual item (i.e. the price a consumer would pay if they bought this item on a standalone basis), we are doubtful

[12] https://comcom.govt.nz/__data/assets/pdf_file/0035/294659/Improving-retail-service-quality-Product-Disclosure-Emerging-Views-paper-12-October-2022.pdf, para 30 and 31

that this has any real utility for the majority of consumers who purchase services in combination.

16. Moreover, we believe that there is no case for intervention in the pre-pay mobile market. The value of pre-pay mobile products is inherently highly transparent, and consumers are enabled to assess what they need and choose the right product for them on a daily, weekly or monthly basis. We have seen no evidence that intervention would improve retail service quality to reflect the demands of end-users on pre-pay mobile products, and the Emerging Views Paper does not provide any. There is also no support for intervention found in the Commission's 2019 mobile market study[13] or the 2020 review of mobile consumer bills (which assessed only post-paid services). Providing an average monthly cost over, for example, a 24-month period will not result in pre-pay service customers getting additional valuable information, given that the inherent nature of pre-pay plans is one of regular variability, i.e. customers are highly sensitive to price and value, and change their plan and provider regularly. This dynamic – and the intensity of competition in the pre-pay segment - contribute to the Commission's previous finding that '*…the average revenue per user (ARPU) for prepaid customers was $12 per month in 2018*'[14] Since 2016, when Vodafone introduced its MyFlex pre-paid plan, our customers have had the flexibility to adjust the number of minutes, texts, and data in their pre-paid bundles. Vodafone customers can easily change their pre-pay plan as required on our website or through the Vodafone app without any service friction. Any intervention directed at pre-pay mobile products risks creating consumer confusion. For example, say a mobile provider offers a 28-day plan of 10GB for $30. The 'average monthly cost' of this would be $32.50. However, the amount of data a customer gets in a calendar month would also change to 10.8GB. Showing the $32.50 average monthly figure for 10GB is therefore not a true representation of the offer the customer is getting.
17. As a related point, we note the Commission's suggestion that average monthly cost information '*should be stated prominently in all marketing*'. Assuming there are reasons that support giving consumers more information beyond what is presented today, disclosing this additional information in *all marketing* would not be practical or provide additional value for consumers because consumers do not purchase a product or service at the point of advertising. Any further information relating to price and cost should be disclosed only at point of sale, and subject to being able to do this in a manner that consumers will actually engage with and use. A requirement to present significant further information across *all* marketing will exclude the ability to advertise products and

[13] Mobile-Market-Study-Findings-report-26-September-2019.PDF (comcom.govt.nz)
[14] https://comcom.govt.nz/__data/assets/pdf_file/0022/177331/Mobile-Market-Study-Findings-report-26-September-2019.PDF, para 3.15

services across some channels: potentially including radio, billboards and TVs (given the inherent nature of these channels and how consumers engage with them).

Comparing total costs

18. Vodafone already provides most information set out in the Commission's Emerging Views Paper under 'comparing total costs', including the monthly cost, setup costs, extra costs and period of the offer for both fixed broadband[15] and pay-monthly mobile products at the checkout point. It would be helpful to understand whether specific evidence supporting the Commission's rationale for intervention shows a) whether consumers *already engage* with this existing information; and b) if not, what is stopping this engagement from happening. This initial question should be addressed before moving to a conclusion that providing consumers with *more* information is necessary.
19. We note that the Commission's basis for the proposed intervention is based on the finding included in the Commission's *Improving Retail Service Quality Final Baseline Report* (9 December 2021), which states that '*consumers find product offers complex, and offer details are not clear or transparent on RSP's website*.' This provides no indication that consumers struggle to understand product costs specifically. As such, the Commission's proposal for providers to be required to state the total minimum cost over the period of the offer does not reflect demands of end users as it stands, and therefore intervention in this area would not be consistent with Part 7 of the Act.
20. We have looked into whether any similar measures have been implemented in the telecommunications sector in comparable overseas jurisdictions. The total cost indication is being used by parts of the overseas telco markets only. In Australia, it *only applies* to interest free payment mobile phone plans. Meanwhile, in the UK, some comparison tool providers display the total minimum cost information, but it is not required to be provided on the product page or in marketing by mobile or broadband operators themselves. As we acknowledge above, presenting a total minimum cost requirement for a single standalone item is possible – but overseas examples give no precedent for the significantly broader and more complex intervention that the Commission is proposing. Absent any evidence presented in the Emerging Views Paper of customer demand for total minimum cost disclosure, we struggle to see a need for further intervention in this space, particularly given the lack of comparable overseas examples.

[15] https://www.vodafone.co.nz/broadband/internet-plans/plan-options/

Comparing plan inclusions

21. As noted in the Emerging Views Paper, telecommunications providers who are TCF members are already subject to the Broadband Product Disclosure Code and provide offer summaries to customers at the point of sale. We are open to working with industry through the TCF to agree on further standardisation for how this information is presented to consumers and to explore extending this to cover pay-monthly mobile products.
22. We do not see a need for offer summaries to be provided for pre-pay mobile plans. Establishing offer summaries for over 150 pre-pay mobile plans that Vodafone offers would be a significant practical challenge in a scenario where there is no clear evidence of a problem. Putting aside the fact that intervention is not justified where a problem cannot be shown to exist or be properly defined, the steps that the Commission proposes wouldn't deliver any material benefits to end users of pre-pay services because most of the information required to be provided in the offer summary is not relevant for them (including 'services included under the contract', 'set up charge', 'access type', 'minimum term', 'early termination fees', and 'total minimum cost over a standard timeframe'),
23. We agree with the principle that the offer summary information should be easy to access for consumers at the point of sale, but consumers should continue to have a *choice* to review the offer summaries rather than being required to review it before product purchase is completed.
24. We understand that a review of the TCF Broadband Product Disclosure Code is part of the TCF's 2024 work programme. We suggest that any further standardisation of broadband offer summaries, and the proposal to extend offer summaries to post-pay mobile plans, are considered as part of this work rather than being undertaken through a separate overlapping (and potentially conflicting) exercise.

Comparing bundled pricing

25. We agree with the Commission's objective of creating greater transparency across bundled offers, particularly when telecommunications services are bundled with non-telecommunications services, and believe that intervention in this area should be prioritised by the Commission.
26. However, before any decisions on the specific measures are made, we request that the Commission a) elaborate on how it envisions bundled pricing information being

presented to consumers; and b) consider what impact this may have on the wider market. For example, providers that bundle broadband and electricity are typically able to offer significant discounts for broadband services (i.e. selling a broadband service at a cost that is *lower* than the wholesale input cost for that service) because electricity margins are used to cross-subsidise between products. This results in an effective discount being applied that enables a broadband service to be sold at a price that simply would not be profitable if sold on a standalone basis. This subsidy can occur in a number of ways – including by allocating all 'common costs' associated with provisioning and delivery of customer services to one product rather than across all products that these services are connected with. Our concern is that if some service providers are permitted to show heavily discounted standalone prices for broadband services – without any requirement to properly demonstrate allocation of costs to different products – this will set a very distorted view of the actual cost of broadband services. We therefore suggest that any new measures to increase transparency of bundled products include a requirement for bundle providers to disclose each of the components of cost that make up their charges.

27. The Commission has suggested issuing guidelines to the industry which would be incorporated into an industry RSQ code by the TCF as a way to implement the proposed measure. However, as emphasised above, any effective intervention in this area must apply to all service providers. We therefore recommend that if the Commission decides to pursue a regulatory intervention in this space, any new measures should be implemented through a Commission code, which the TCF can assist with the development of.

Comparing customer numbers

28. Vodafone does not support this proposed intervention. We do not believe that the issue of comparing customer numbers is a matter that either a) goes to the improvement of retail service quality or b) is reflected in the demands of end users of telecommunications services. The Emerging Views Paper states that '*customer numbers are important to competition in two respects: they provide a measure of market share and by extension are an indicator of success to consumers.*' The Commission's *Improving Retail Service Quality Final Baseline Report* (9 December 2021) contains no evidence to support the view that consumers see providers' customer numbers as a proxy for reliability. The further reasons for requiring consistent reporting of customers numbers do not support intervention under Part 7 of the Act. While the Emerging Views Paper suggests it would be useful to the Commission if a common methodology for presenting

customer numbers in '*all external reporting by RSPs*' (i.e. irrespective of whether consumers engage with this reporting), this is in no way an '*aspect of product disclosure*' as the Commission suggests.[16] Irrespective of whether aligned reporting might assist the Commission in monitoring the industry, this is not a valid purpose for intervention under Part 7.

29. Adopting ITU's definitions for reporting purposes, as proposed by the Commission, would be a challenging exercise for Vodafone and would require significant resources to be dedicated to deliver this change.
30. Pursuing alignment in how service providers report customer numbers is unconnected with retail service quality and has no benefit for consumers. We do not believe that the Commission should pursue this intervention, and Vodafone will not support the development of industry retail service quality code addressing this issue.

Comparing mobile coverage

31. As a general principle, we support the outcomes the Commission is seeking to achieve through the proposals relating to comparison of mobile coverage. As acknowledged by the Commission, coverage maps rely on models that cannot account for all factors that affect real-world performance. Indeed, the customer's experience of mobile coverage and service quality will depend on a wide range of factors that operators have no control of, such as the local environment and the type of device used. Providing indoor coverage indications is even trickier, as service quality can depend on the materials the house is built of and, for apartments in multi-storey buildings, on which level the customer resides.
32. Despite these practical challenges, we believe it is important to provide customers with clear indication on the coverage they should expect to receive in a given location. As such, Vodafone already provides a mobile coverage map which reports outdoor coverage by technology and has an address checker functionality.
33. We note the Commission has used the UK and Ireland as examples of how further standardisation of mobile coverage maps has been delivered in other jurisdictions. Following further research into how this has been delivered overseas, we have found that mobile operators in the UK do not have an agreed consistent calculation methodology for reporting mobile coverage. This is something that was considered and attempted over a number of years but proved to be too challenging to implement in

[16] https://comcom.govt.nz/__data/assets/pdf_file/0035/294659/Improving-retail-service-quality-Product-Disclosure-Emerging-Views-paper-12-October-2022.pdf, para 98

practice. In particular, each mobile operator uses its own methodology to predict coverage. These methodologies use various combinations of data that the operator may hold itself or acquire from third parties together with proprietary software/tools that 'renders' that information to provide a prediction of coverage at different locations. While these processes will use some common data sources, there are a variety of steps that may be varied by operators – and not all operators use the same software/tools. The UK's position is that operators are not currently using a single aligned methodology to produce coverage maps, and we understand there is little prospect of them doing so. Operators in the UK do have an agreed terminology for service quality thresholds; however, we understand it has taken the UK industry 3-4 years to stand up the current framework for reporting mobile coverage information and the process of sharing it with Ofcom, demonstrating the scale of the challenge.

34. Meanwhile, as referenced by the Commission in the Emerging Views Paper, Ireland has an integrated mobile coverage map in place. This was developed, and is run and funded, by the Irish telecommunications regulator ComReg. We understand that it took ComReg 2 years to establish this tool, again demonstrating that this is not a quick exercise. If the Commission seeks to pursue the development of an integrated coverage map then independence and consistency of this tool is critical, and proper time and consideration must be allowed in order to achieve this.
35. In addition, we note that the methodology used to assess coverage is also used by each operator to determine where it should invest in its own network, and the nature and scale of those investments. In most parts of New Zealand, all mobile operators continue to compete on the geographic coverage and the quality of their networks, and claims regarding coverage, capacity and reliability feature in marketing to end users. Consideration does need to be given about the extent to which an intervention by the Commission that required all mobile operators to align on the methodology that they use to calculate coverage and prioritise network investments, and the potential increase in transparency that this would enable for both end users and the market generally, might result in a reduction or distortion of competition. This dynamic also affects the extent to which the TCF (or mobile operators collectively) could discuss or give effect to any alignment on methodology. The Commission must give further consideration to and guidance on this point.
36. We are open to working with industry to assess the feasibility of developing a framework for consistent terminology for reporting mobile coverage. We cannot commit to any timeframes for the delivery of the Commission's proposals before detailed assessments are carried out on their feasibility.

Contact

37. Please contact the following regarding any aspect of this submission:

Tom Thursby	*Kamile Stankute*
Head of Legal and Regulatory	*Senior Public Policy Advisor*
[redacted]	[redacted]