



Vodafone Aotearoa response to the Commerce Commission's consultation *Improving Retail Service Quality: Customer Service*

16 March 2023

Executive summary

1. We welcome the opportunity to comment on the Commerce Commission's (**the Commission**) consultation on Improving Retail Service Quality: Customer Service (**the Consultation Paper**).
2. We agree that customer service is an important part of Retail Service Quality (**RSQ**). Vodafone continues to invest to address our customers' key pain points and enable frictionless customer experience initiatives, including by bringing customer care agents onshore (for all complex requirements), working to reduce underlying causes of calls, improving service agent capability and driving engagement with our digital self-service channels. We are prioritising work to avoid customer service issues arising in the first place and removing the underlying reasons for customers to engage with service channels.
3. It is important that any new RSQ interventions align with the following principles:
 - a. Interventions must be based on strong evidence. The Telecommunications Act 2001 (**the Act**) states that RSQ interventions need to 'reflect the demands of end-users of telecommunications services'¹ and evidence must establish both what the demands of end-users actually are and how an action will result in these being met.
 - b. Intervention must apply consistently to all market participants providing the services – or performing the activities – that are targeted by it. Asymmetric

¹ Telecommunications Act 2001, s 233.



regulation is inconsistent with the Part 7 of the Act and undermines the RSQ outcomes that the Commission seeks to achieve. Applying an intervention to retailers of certain size with a vague commitment to wider application only 'when sufficient data is available'² is asymmetric regulation with scope to distort competition between retailers over the period that it applies. Interventions must avoid distorting competition in the telecommunications market.

- c. The same resources are required to implement i) new interventions; ii) the Commission's existing RSQ measures; and iii) the proactive work already being done by RSPs. If the Commission prefers the new interventions proposed in the Consultation Paper to things that Vodafone is already working on, then this should be made clear and the impact of delaying or stopping work already underway should be specifically addressed when considering the impact and benefits of the new intervention proposed.
 - d. The Commission's desire for industry to implement RSQ initiatives – in this case, disclosing customer service metrics using a specific calculation methodology and publishing the Commission's league table – must be grounded in a realistic assessment of the end-to-end process that is required to implement this, the nature and complexity of it and the resource requirements for implementation.
4. Below we have set out our views on the Commission's proposals included in the Consultation Paper. In summary:
- a. There is no strong evidence to suggest that there has been a market failure that requires an intervention from the Commission in the customer service space. The principal evidence relied on by the Commission is research conducted by Fiftyfive5. The Consultation Paper suggests that the Commission has placed weight on complaints made to the Telecommunications Dispute Resolution Scheme (**TDRS**) and those it receives itself. However, other than noting the number of complaints falling within a 'customer service' category relative to other categories, the Commission hasn't examined complaint themes or explained the conclusions that can be drawn from this information source. An observation that, for example, customer service (however categorised) is the second highest number of complaints to TDRS over the last 10 years³ isn't instructive unless conclusions and themes can be drawn from those complaints actually examined and upheld. In terms of complaints made to the Commission, as it notes itself, any conduct mentioned in complaints is an allegation only and is from the complainant's perspective only.

² Consultation Paper, X15.

³ Consultation Paper, 8.



- b. It is inappropriate to cherry-pick parts of the CMA's intervention in the UK banking sector and apply it to New Zealand's telecommunications market without considering the differing contexts between the two cases and without applying the rigorous approach that the CMA undertook when developing and implementing remedies to tackle very specific/defined issues in the UK retail banking market.
 - c. The Commission's proposed intervention (i.e. the league table) undervalues a crucial component of customer satisfaction: issue avoidance. A provider that invests heavily in avoiding issues but has below industry average customer service for the fewer problems that do arise will score poorly on the proposed dashboard and is therefore likely to be disadvantaged. Proactively removing sources of customer friction and reasons for customers to engage with service channels is core to Vodafone's service strategy. The Commission's proposed intervention would require us to deprioritise work that benefits all Vodafone customers in favour of a proposed intervention valued only by a minority.
 - d. The absence of a cost-benefit analysis and lack of analysis of potential unintended consequences from the proposed measures on the telecommunications market, including potential to deter efficient investment in customer service measures and distort competition, is a concern.
 - e. Absent any strong evidence to support its proposed interventions, the Commission should adopt a more gradual approach that aligns with the scheme and intent of Part 7 of the Act. There should be an initial period of monitoring of industry performance in the customer service space for at least 12 months using industry information, TDRS and the Commission's own complaints data.
 - f. If the Commission decides to proceed with the proposals to collect customer service metrics information from industry, then, to avoid asymmetric regulation, no providers should be exempt from it. It is critical to avoid a situation in which excluded providers obtain competitive advantage by not being mentioned in the Commission's reporting.
5. We **attach** an independent expert report prepared jointly by Dr James Every-Palmer KC and NERA Economic Consulting that assesses proposals in the Consultation Paper and supports the views set out above.



No case for intervention

Use of Part 7 powers is not supported by evidence

6. Under Part 7 of the Act, the Commission has broad powers in respect to RSQ codes, with the overall purpose of any RSQ intervention being 'to improve retail service quality to reflect the demands of end-users of telecommunications services.'⁴ However, these powers are subject to limits, including requirements that their exercise is reasonable, proportionate and founded on strong evidence.
7. In this case, the Commission has relied on limited consumer research to determine that there is a need for an intervention to drive improvements in customer service. Fifyfive5 research is the predominant evidence base for the proposals in the Consultation Paper. The Commission hasn't asked for or referenced data relating to RSPs' own complaints data or TDRS complaints upheld in developing the proposals in the Consultation Paper.
8. The Fiftfive5 research shows that most consumers don't often think about customer service.⁵ Earlier research which the Commission has used as the basis for the RSQ programme also found that fewer than 10% of consumers are overtly dissatisfied with their provider's service and 78% of consumers are happy with their provider.⁶ Rather than making a case for the proposed intervention, available research confirms that consumers place lower value on customer service than factors like product or price when choosing a provider because they judge that the probability of having a bad customer experience is low. It is rational for consumers to put greater value on certain events (e.g. that the price for service will be \$x) than the uncertain ones (e.g. that they will encounter a service issue that they cannot self-manage via website or app, and that requires a service interaction to solve).
9. Even so, the Commission has proposed substituting its own judgment for that of consumers to conclude – without any strong evidence – that the uncertain and unlikely prospect of a service interaction is something consumers *should* care about and *would* care about if confronted with more information.
10. It's accepted that there are always opportunities for further improvement in customer service. However, we struggle to see evidence that the proactive improvements already being made by industry aren't the right ones, or that the Commission's proposals will deliver greater benefits to consumers overall than the investments already underway

⁴ Telecommunications Act 2001, s 236.

⁵ Telecommunications RSQ Initiative Development, Fifyfive5, October 2022, p. 12

⁶ Research New Zealand Consumer Telecommunications Survey 2021, 14 September 2021



and those that competition on service quality will continue to create. A big part of our focus in this space is continuously improving our systems, products and processes to reduce the need for customers to have service interactions with our care agents via calls or emails.

11. In addition, more customers are able to identify and resolve their issues themselves when required and fewer have any requirement to speak to a care agent. In the period between Q2 and Q3 FY23 alone, we observed a []% increase in our customers using self-service and help and []% increase in plan changes completed online. However, we recognise that there will always be some customers who need to call us, including those who may not be comfortable using digital tools or who have complex issues to resolve. Our focus on CX is also delivering service improvements for these customers: compared to a year ago (and despite Vodafone's overall customer base [], around [] more Vodafone customers each month are having their issues resolved first time, around [] less calls require the need to be transferred to another agent each month and the average call wait times have reduced by []% as a percentage of total monthly calls.
12. This is exactly the sort of investment improvement activity that we want to continue to focus on, as opposed to interventions that customers are not asking for, don't demand and that won't make a difference to their actual experience.
13. Recent complaints data doesn't suggest that there is any real demand for a regulatory intervention in the customer service space. Irrespective of any trend in complaint themes, there were only [] customer service complaints to the Commission involving Vodafone throughout 2022. This is an extremely low number as a percentage of our total customer base of c.[] million fixed and mobile connections in the year ending June 2022.⁷ Put simply, in 2022 fewer than [] of Vodafone's customers were sufficiently motivated by service issues to make a complaint to the Commission.
14. In any case, on proper examination, it also becomes clear that it is unreliable to count all of these complaints as examples of poor service. Any conduct mentioned in complaints is an allegation only and is from the complainant's perspective. Some of these complaints currently characterised as indicators of a problem with customer service just show a mismatch between customer expectation of a service and the inherent characteristics of that service (e.g. 'Landline services regularly cut off. Dissatisfied that they have to email Vodafone to get it remedied'⁸). It is unclear what service response, if any, could resolve this mismatch.

⁷ Vodafone response to Commerce Commission 2021/2022 Annual Telecommunications Industry Questionnaire

⁸ Vodafone 12-month complaints analysis, the Commerce Commission, January 2022 to December 2022



15. An analysis of the underlying merits of these complaints is critical before deciding that it is a reliable basis for regulatory intervention. This is why we believe that data of complaints upheld by the TDRS provides the most insightful and accurate picture. The latest complaints data from the TDRS shows there has been a 62% decrease in enquiries/complaints relating to customer service over the past year, despite a 17% increase in the overall number of enquiries/complaints in this period. Only 1.7% of all complaints across the different categories were upheld, while 1.8% were settled with the help from the TDRS.⁹ Meanwhile, our own complaints data shows that over the past 12 months, only 1% of all complaints raised by Vodafone customers were related to customer service issues. This data undermines the Commission's suggestions that there is widespread consumer demand for a regulatory intervention in the customer service space. It's surprising that this source hasn't been considered by the Commission when developing its thinking on the nature and scope of service issues, and when determining the appropriateness and design of any intervention remedy.

Proposed intervention is inappropriate and ignores context

16. We do not believe that drawing inspiration for RSQ interventions from the banking sector in the UK is an appropriate substitute for properly engaging with this material. The requirement for UK retail banks to publish service quality indicators on their websites and branches¹⁰ arose in different circumstances and followed the 2016 investigation into the sector by the Competition and Markets Authority (CMA), which found separate adverse effects on competition in the retail banking market. CMA's findings included that the majority of consumers had been with their main retail banking provider for over a decade and 90% would have gained financially from switching products/providers.¹¹ Indeed, we are concerned with an approach to RSQ regulation that sees the Commission selectively cherry-picking measures from other jurisdictions without considering a) the underlying context, conditions and reasons for regulatory intervention, in the first instance; and b) the framing of specific remedies to reflect these elements.
17. In contrast to UK retail banking markets, there is no evidence to suggest that there has been a telecommunications market failure that necessitates intervention along the lines of what has been done in the UK banking sector. It is widely accepted (including by the Commission, independent analysts IDC and a range of investment analyst reports) that the telecommunications market in New Zealand is highly competitive, evidenced by the

⁹ TDR Annual Report, 1 July 2021 – 30 June 2022

¹⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/600842/retail-banking-market-investigation-order-2017.pdf

¹¹ <https://www.gov.uk/government/publications/retail-banking-market-investigation-overview>



fact that over the years the market has delivered low prices that compare well with other OECD countries, a range of world-class networks and connectivity options, and continuous evolution of the services on offer for consumers.

18. For consumers who are not satisfied with their provider, the process of switching is easy and low cost, becoming easier over recent years as a result of growth in open-term plans. Over the past year, 11% of Vodafone residential broadband customers and 12% of pay-monthly mobile customers switched to a different provider. Our data supports Fiftyfive5's finding that consumers' decisions to switch providers are 'primarily driven by desire for better value in an openly competitive market' and that 'comparatively few' consumers are pushed to switching 'by service or other experiential matters.'¹² Poor customer service follows after 11% as the reason given by broadband customers for leaving Vodafone, with only 12% of customers choosing this as the main reason for switching, down from 15% a year ago. The ease of switching acts as an incentive for providers to continuously improve customer experience.

No consideration of costs, benefits or proportionality of intervention

19. Lastly, we are concerned about the absence of a cost-benefit analysis of the Commission's proposals, which should be part of good regulatory practice. Consequently, there is no evidence to suggest that the proposed intervention will result in a net improvement for most consumers compared to the status quo or whether an alternative intervention might be more appropriate and proportionate. Given that the research which the Commission is relying on for its proposals shows that most consumers do not demand customer service and that the large majority are happy with their provider (as noted in para 8 above), it is likely that the benefits of this particular intervention will be small.
20. Moreover, the Commission has not properly considered or tested how consumers will engage in the real world with the remedies it proposes. There is a genuine prospect of its proposed intervention proving inadequate or have harmful unintended consequences if consumers do not read or understand the information provided.
21. The Commission has not properly considered whether the proposed intervention is proportionate and aligned with good regulatory practice. It has assumed that current approaches to improving customer service are inadequate, despite the information it has relied on supporting no such conclusion, and has failed to engage with information that

¹² [Fiftyfive5 – Telecommunications RSQ Initiative Development Research Summary Report – 15 December 2022](#), p. 11



would better indicate the actual demands and concerns of consumers who actually engage with customer service channels. It has then settled on a behavioural remedy applied in a different market to address a competition problem that simply does not exist here. The Commission's focus should instead be on encouraging operators with work already underway and ongoing investment in improving experience for all consumers rather than focusing solely on the minority who experience issues that require a service interaction.

Further problems with the proposed intervention

22. The Commission's proposals place an emphasis on how well service providers solve problems rather than how well they avoid problems and how good their overall customer service is in the first place. This means that a service provider that invests heavily into removing the underlying causes that drive service interactions but has below average customer service for the fewer problems that do arise will score poorly on the proposed league table.
23. In other words, providers will be penalised for avoiding problems and rewarded for solving problems that were not avoided. This incentivises operators to not invest in avoiding simple problems that they could instead easily and knowledgeably solve purely in order to receive a high score on the Commission's league table. Another unintended consequence may be that providers start to prioritise speedy rather than durable resolution of issues which would also reflect favourably on the proposed league table. Further assessment of how the proposed intervention would distort investment and competition between operators on service is covered in the attached independent expert report.
24. The CMA's approach to the league table avoids these issues by focusing on broader measures of customer satisfaction and taking into account views of all consumers, ranking providers on '*how likely a customer would recommend a bank's service to friends and family*' for (a) overall service quality, (b) online and mobile banking services, (c) overdraft services, and (d) services in branches. In contrast, the Commission's proposed league table considers only the views of those consumers who have faced an issue. In addition, the CMA's consumer survey is also much narrower than what is being proposed by the Commission. It focuses on the very specific key aspects of overall service experience, as opposed to collecting and reporting consumer views on a much wider range of RSQ issues, including ones that RSPs have no control over (e.g. '*How satisfied customers are with the broadband installation process from their new provider?*').



25. Ofcom also produces a league table of telecommunications providers in the UK, which it publishes as part of its annual customer service report. Ofcom's approach to consumer research is similar to the CMA's in that it scores providers based on general consumer satisfaction with their service and five other measures, including customers with a reason to complain, overall satisfaction with complaint handling and average call wait times.¹³ We don't understand why the Commission is proposing to deviate from the international best practice in how consumer satisfaction surveys are conducted and reported.
26. There are some further issues with comparing RSPs on service quality on the proposed metrics, including:
- a. The proposed approach may favour providers with the most basic/less innovative products. Offering fewer and simpler products with less features would simplify the service interaction, hence improving those providers' score on the league table. However, this would not be a good outcome for consumers.
 - b. Events such as Cyclone Gabrielle and Auckland floods, as well as lower scale network outages, can have a major impact on RSPs' services, including call wait times due to the rapid rise in customers needing to contact their provider. Using call wait times as a specific example, following such events, the overall figures for the reporting period will be skewed. In addition, the figures for average call wait times following such events would likely show up worse for larger providers that have a bigger customer base (inevitably meaning that more customers are trying contact them).
 - c. Network events that are driven by Local Fibre Companies (**LFCs**) but are largely out of RSPs' control will impact the data. Latest TDRS data shows that complaints relating to installation – a process that RSPs have no control over when it comes to fibre services – is the fastest growing category of complaints, increasing by 2,571% over the past year¹⁴. The Commission has previously declined to bring LFCs within the scope of its Part 7 interventions, and it is unreasonable to hold RSPs publicly accountable for issues that are caused by LFCs.
 - d. There's no consideration of the likelihood of consumers actually engaging with additional information – it is simply assumed that they will. Given this uncertainty, the Commission should at a minimum move to a period of

¹³ https://www.ofcom.org.uk/data/assets/pdf_file/0030/237639/comparing-customer-service-report-2022.pdf

¹⁴ <https://www.tdr.org.nz/sites/default/files/2022-11/TDR%20Annual%20Report%202021%E2%80%932022%20final.pdf>



extended monitoring and empirical testing of its proposed remedy, and considering whether it does in fact align with consumer demand before deciding on next steps.

Proposed next steps

27. We acknowledge that the Commission has the powers to collect information from service providers for the purposes of monitoring RSQ. However, we believe it is premature to move straight into publishing a league table without any strong evidence that the market is not delivering customer service improvements that consumers demand.
28. We propose that the Commission monitors providers' performance in the customer service space for at least 12 months using industry information, TDRS and the Commission's complaints data. If, following this period of monitoring, the Commission determines that there is clear evidence of a market failure and that an intervention would deliver net benefit to most consumers, we propose that the Commission produces and publishes an annual report that compares customer service across providers, similar to the report produced by Ofcom in the UK.¹⁵
29. A requirement for providers to publish a league table on their websites should be the very last resort that is only pursued if there is strong evidence that demonstrates: i) a market failure in avoiding issues (which would be evidenced, among other factors, by data showing an increase in consumer dissatisfaction with service and growing demand to contact their provider to resolve issues), and ii) widespread failure by industry to deliver the standard of customer service that is expected of the majority of consumers.

Monitoring provider customer service performance

30. Below we have set out our position on the specific categories of information that the Commission is proposing to collect.

Industry information

¹⁵ <https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/quality-of-service/report/interactive-report-2022>



31. Vodafone would be able to disclose all of the proposed customer service metrics in the specified calculation methodologies. There will be costs associated with producing and maintaining the data for this specific purpose. For most metrics, we would be able to provide the information for residential and SME customers separately, noting that there may be some flaws in that data depending on how the customer chooses to contact us, for example a SME customer may also hold a residential connection with Vodafone and vice versa and will often utilise either channel with a query.
32. If the Commission decides to pursue the proposals around the collection of customer service information from industry, the requirement should cover all providers irrespective of their size to ensure there is a level playing field. 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 2021¹⁶. 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 connections¹⁷. There should be no exemption for smaller operators from any Part 7 requirements that are imposed.
33. There is no need for the Commission to collect the information from industry on a quarterly basis. Instead, this can be done annually, with the possibility of 6-monthly disclosure only if the benefits of more regular reporting can be clearly established by the Commission as necessary to achieve the purposes of Part 7. The Commission should seek to minimise the administrative burden associated with compliance with any new regulatory requirements – this is part of good regulatory practice.
34. We support the Commission requesting this information from industry through a voluntary request. However, as noted above, it is critical to ensure that if this intervention is introduced, all industry players are required to disclose information on customer service metrics to the Commission. Non-compliance with voluntary information requests should therefore be followed by a statutory information request to relevant parties.

Customer satisfaction survey information

35. The Commission should place most weight on industry information, TDRS and the Commission's complaints data as the key sources for RSQ monitoring and identifying systemic issues that may need to be addressed by regulatory intervention.

¹⁶ 2021 Annual Telecommunications Monitoring Report, 17 March 2022

¹⁷ IDC NZ – Fixed and Mobile Datacut 2022 Q2



36. If the Commission decides to proceed with the proposal to survey consumers on a monthly basis, it will be critical to ensure this research is statistically robust, including by capturing the views of a broad range of consumers, not only those who have experienced issues with their provider. We suggest that the Commission adopts the CMA's approach to consumer surveys.

TDRS information

37. The TDRS currently publishes a bi-annual report which provides analysis on the number and type of enquiries/complaints made against each provider. These reports act as a good and consistent indicator of service quality, as well as providing a view on systemic issues across the industry. We rely on TDRS data, in addition to our own internal complaints data, to prioritise customer experience issues that need addressing.
38. Given TDRS data, and particularly TDRS data on complaints upheld, provides a good evidence base on the real issues that consumers face, it is a more relevant information gathering mechanism than consumer satisfaction surveys.

Commission RSQ monitoring report

39. The Consultation Paper notes that the Commission is 'investigating ways that the data could be made available continuously, such as through an interactive portal.' We do not support measures that will add material costs through additional and onerous reporting requirements unless this can be clearly justified within the scope of Part 7. The Commission must carry out appropriate cost-benefit analysis of measures it considers imposing on industry. Interventions must be supported by strong evidence to show they meet customer demand and the cost of compliance with existing and any new regulatory measures must be reasonable and proportionate.

Confidentiality

40. Confidentiality is sought in respect of the information in this submission that is contained within square brackets and is highlighted (**Confidential Information**). Confidentiality is sought for the purposes of section 9(2)(b) of the Official Information Act 1982 on the following grounds:
- a. the Confidential Information is commercially sensitive and valuable information which is confidential to Vodafone; and
 - b. disclosure of the Confidential Information would be likely to prejudice unreasonably the commercial position of Vodafone.



41. We ask that the Commission notify us if it receives any request under the Official Information Act 1982 for the release of any part of the Confidential Information, and that the Commission seek and consider its views as to whether the Confidential Information remains confidential and commercially sensitive before it responds to such requests.

Contact

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

Tom Thursby

Kamile Stankute

Head of Legal and Regulatory

Senior Public Policy Advisor

e [REDACTED]

e [REDACTED]