

# One NZ submission on the Commerce Commission's draft retail service price and cost guidelines

15 March 2024

## Introduction

1. We welcome the opportunity to comment on the Commerce Commission's (**the Commission**) draft retail service price and cost guidelines (**draft guidelines**). We support the outcome of consumers being adequately informed about the costs they will incur for particular services. In this submission, we have set out One NZ's views on the proposals.
2. The draft guidelines state that providers would be expected to comply with the final guidelines within three months of their publication. Given the practical complexity in delivering some of the proposed changes, One NZ would require more time to deliver some of the proposals. However, we're unable to comment on the timeframes required at this stage without having first carried out a project scoping assessment once the guidelines are finalised.

## Summary of key points

3. Summary of One NZ's key points:
  - a. The Commission's final guidelines should be focused on outcomes, rather than being overly prescriptive in how those outcomes should be achieved.
  - b. **Average monthly price:** pre-pay mobile should be excluded from any new requirements relating to average monthly price because it risks creating consumer confusion due to how pre-pay mobile offers are designed.
  - c. **Total minimum cost summary:** to avoid providing consumers with a total minimum cost summary that might be misleading, the total minimum cost for the plan should only be required to be added when the plan is provided on a fixed-term basis. In cases

where plans are open term, it should be sufficient to provide the total minimum cost for the device over the contract period only.

- d. **Offer summaries:** further consumer research is needed to show whether there is genuine demand from telecommunications end users to make offer summaries plan specific and to receive personalised offer summaries after sale. If the Commission finds evidence that supports the need for an intervention in this space, pre-pay mobile plans should remain out of scope and flexibility should be provided to operators in how they provide offer summary information to customers after sale.
- e. **Early termination fees:** if the Commission decides to proceed with the proposal to require operators to make early termination fees readily available to customers, final guidelines should not be prescriptive in how this outcome is achieved to avoid this measure being unnecessarily complex and costly to implement.

## Average monthly price

4. One NZ already enables consumers to readily compare prices of different products it supplies. We are happy to refine our approach to enable comparison across providers. However, we have concerns that the Commission's proposal for the average monthly price to be displayed alongside the headline price risks creating confusion, particularly in pre-pay mobile.
5. We have previously called for pre-pay mobile to be excluded from the requirement to display the average monthly price. In summary, our reasons for this are that the value of pre-pay mobile products is inherently highly transparent. Purchasers of these products are highly engaged 'transactors' who regularly reassess the value of services offered by different providers. One NZ pre-pay mobile services are easily configurable to reflect the elements of service that consumers most value, and they are enabled to choose the right product for them on a daily, weekly or monthly basis (see image below, also at [Prepay. Prepaid plans for mobile. One NZ.](#)).

MyFlex Prepay gives you the freedom to design your own plan with your unique combo of data, mins and TXTs.

Flex up or down whenever you like. Or you can pick one of popular Prepay combos.

Once you've got a One NZ [Prepay SIM](#), follow the link on your phone to get set up with a MyFlex Prepay plan. Or, if you've already got a SIM with us but have your own number, you [can bring your number](#) from another provider to get 5GB of free data for 90 days.

Buy my SIM Bring my number

Design your own Popular Combos

<	250MB	1GB DATA	1.25GB	1.5GB	>
<	100	200 MIN	300	400	>
<	100	Unlimited TXT			>

**\$16**

Your plan needs to consist of data, mins and TXT totalling \$13 or more.

6. In this context, providing an average monthly cost over a 12-month period will not result in pre-pay service customers getting additional valuable information because the essential nature of pre-pay plans is one of regular variability, i.e. customers are highly sensitive to price and value, know exactly what period they are transacting for, and change their plan and provider regularly.
7. 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 price for 10GB is therefore not a correct representation of the offer. As noted in our previous submission on this issue<sup>1</sup>, the more accurate way to display the 'average monthly cost' would be '\$32.50 for

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<sup>1</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0024/302496/Vodafone-Submission-on-Improving-RSQ-Product-disclosure-emerging-views-paper-7-December-2022.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0024/302496/Vodafone-Submission-on-Improving-RSQ-Product-disclosure-emerging-views-paper-7-December-2022.pdf)

10.8GB per month'. But this still wouldn't take into account promotions such as One NZ's 'free data nights' where it would be difficult to quantify the amount of data a customer gets for the price because it would depend on the time of day the customer used the service. The Commission does not appear to have engaged with this complexity and this presentation of average monthly price was not tested with consumers in the Commission's latest research<sup>2</sup>.

8. The Commission's research found that only 10% of mobile customers found it difficult to establish the best value plan from the ones displayed, which included the cost over 28 days<sup>3</sup>. The research does not distinguish between pre-pay and pay-monthly mobile customers. This confirms that there is no evidence of a material problem in how prices are displayed in the mobile market and instead confirms the opposite: that around 90% of consumers do not experience any problem. Proceeding with the proposed intervention for pre-paid products in these circumstances would be contrary to established principles of good regulatory practice, including – among other things - that there are clear objectives and a rationale for regulation, that any proposal has least adverse impact on market competition, and individual autonomy and responsibility.

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## Total minimum cost

10. One NZ agrees with the Commission on the importance of clearly informing consumers about the cost they will incur for services, and notes that this is an existing requirement under the Fair Trading Act 1986. This is therefore an area where the Commission proposes adding specific regulation that overlaps and duplicates existing generic regulatory requirements. The proposal does not make clear why this existing regulatory requirement or why current

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<sup>2</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0027/337671/Improving-RSQ-Product-Disclosure-Price-and-Cost-Research-14-December-2023.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0027/337671/Improving-RSQ-Product-Disclosure-Price-and-Cost-Research-14-December-2023.pdf)

<sup>3</sup> Ibid.

measures don't result in consumers being accurately informed about the price they will pay for products or services.

11. One NZ already provides a breakdown of costs at checkout, including the total minimum cost for devices purchased on interest free payment (IFP) contracts. The Commission has proposed that the total minimum cost summary should include the cost of the mobile plan over the IFP contract period. For example, if the customer signs up for a \$65 per month plan alongside a 12-month device repayment plan, \$720 would be added to the summary as the minimum cost of the plan over the 12-month period. However, all of One NZ's pay-monthly plans are open term, which means that:
  - a. Where a customer signs up to an IFP offer without a discount being applied, the customer is not tied to staying on the \$65 plan for the entire 12 months, and could switch to another cheaper plan at any point. Including \$720 as the total minimum cost of the mobile plan would therefore be misleading because the customer is able to reduce this cost by switching to a lower value plan at any point.
  - b. Where a discount is attached to the IFP offer, terms may apply requiring a customer to stay on a particular plan for the duration of the IFP device repayment period or only allowing them to move to another eligible plan.
12. To avoid providing consumers with a total cost summary that might be misleading, we recommend that the total minimum cost for the plan is added only when the plan is provided on a fixed-term basis. In cases where plans are open term, it should be sufficient to provide the total minimum cost for the device over the contract period.
13. We note that consumer research relied on as the basis for the proposed intervention on the total minimum cost specifically focused on mobile offers that include device purchases<sup>4</sup>. It is not clear what evidence exists, if any, for the need for intervention in relation to other services.
14. Furthermore, the consumer research offered to explain consumers' reasons for changing plan term choice once total monthly cost information was shown appears to reflect the views of

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<sup>4</sup> Ibid.

only 72 consumers (around 7% of the total sample of consumers surveyed). This research nevertheless concludes that ‘preferences for repayment periods changed after showing total minimum costs, with a shift to the shortest term ... those who changed plan (44% overall) mainly noted that they felt they would pay less overall, get a better price/cheaper than the other term options. This was most noticeable for those moving to the 12-month term.’<sup>5</sup> In reality, higher discounts applied to longer term repayment periods mean that consumers actually paid less for the device when signing up for a longer term. The consumer research results ignore the fact that the total minimum cost is higher for a 24-month term versus a 12-month term because the former includes the cost of mobile connectivity for an additional year. This does not appear to have been made clear in the consumer survey, but should be made clear to consumers if the Commission decides to include the total minimum cost requirement in the final guidelines.

## Offer summaries

15. One NZ is signatory to the TCF Broadband Product Disclosure Code, and under requirements of this Code, already provides broadband offer summaries on our website. As a general principle, we would not be opposed to the idea of expanding the offer summary to post-pay mobile. However, we have concerns about making offer summaries plan specific, particularly because we have seen no consumer demand for this. The consumer research published by the Commission alongside its proposals does not cover offer summaries. At a minimum, we would expect evidence for intervention to include review of the content of existing offer summaries, an evaluation of the extent to which these are currently used by consumers to inform their choice of products and services, and an explanation to why existing summaries are considered inefficient. This baseline understanding must be determined before taking steps to expand existing offer summaries, because without this the Commission has no way

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<sup>5</sup> Ibid.

of telling whether the design features of expanded summaries will in fact be used by consumers and what features/content are necessary to deliver the specific objectives sought by the Commission (once these are identified).

16. We are doubtful that all of the information included in the draft guidelines can be set out in no more than two A4 pages as proposed by the Commission. Currently, One NZ's offer summaries are three A4 pages – it would be difficult to reduce the size of the summary without cutting the content or reducing font size, making it less easy for consumers to digest. Indeed, any requirement to deliver mandatory content to consumers regarding a product or service will need to be carefully balanced with existing consumer law obligations, and operators cannot be expected to summarise plan terms in an abbreviated form to meet one regulatory requirement where this exposes them to allegations of misleading behaviour under another. This point simply illustrates that it is important to get the balance right between providing relevant information while avoiding information overload. This is feedback that we have seen in our own consumer research.
17. In any case, as previously stated we do not see a need for offer summaries to be provided for pre-pay mobile plans. One NZ offers over 150 different potential combinations of pre-pay mobile plans available through One NZ MyFlex, with each configuration entirely within control of the customer. Developing offer summaries for all of these would be extremely burdensome and would result in the creation of copious pre-paid mobile offer summaries each with only minor differences between them. Requiring One NZ to produce and its customers to identify the correct summary in this scenario is likely to result in confusion and significant potential for customers to rely on the wrong summary. More substantively, 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').
18.  If the Commission does not intend for individualised offer summaries to apply to products like MyFlex prepay, this should be made clear in the final guidelines.
19. We agree that the offer summary information should be easy to access for consumers at the point of sale, but consumers should continue to have the *option* of reviewing summaries rather than being required to review it before product purchase is completed. One NZ's broadband offer summaries are currently prominently displayed on the broadband product

page<sup>6</sup>. The Commission proposes that RSPs should provide the consumer with a reasonable opportunity to review the offer summary prior to start of any sale. How does the Commission envision this working in practice for orders placed over the phone without making the sign-up journey overly complex for consumers? A requirement that operators provide the summary in the form of a voice disclosure is impractical given the volume of information that proposed summaries contain, and our experience shows that compelling consumers to receive summary information is likely (from their perspective) to create friction, dissatisfaction with the sale process and ultimately poor customer experience. If the Commission believes operators should compel consumers to engage with summary information, then this requirement needs to be supported by evidence that clearly shows *consumers themselves* would support this approach (rather than an option to review) plus some analysis that demonstrates the Commission understands what this means from a service design and experience perspective.

20. The draft guidelines also include a proposal that RSPs should provide a copy of the offer summary to the customer after sale. It is unclear what identified problem the Commission is seeking to solve through this proposal. One NZ already provides details of the customer's order after sale, and we expect this is common practice across all operators. The purpose of standardised offer summaries is for consumers to be able to easily compare offers across different providers *before* signing up for a service. After the sale is completed, there is no longer any value in providing a summary to enable comparison. It is therefore not clear that a need exists for post-sale offer terms to be standardised across industry. If there is an issue around whether consumers are provided with an accurate record of the transaction they have made and its terms, then this is a different issue that needs to be demonstrated by evidence and requires a different response. Simply extending the obligation to provide standardised

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<sup>6</sup> [https://one.nz/broadband/internet-plans/?utm\\_campaign=BB\\_SEM\\_PhoneNo&&&&gad\\_source=1&gclid=Cj0KCQjw-r-vBhC-ARIsAGgUO2AU19J3ai5MQktZa2pem064uXGNPgsrbpLOsJdfeVIRHgWy-CKw5KMaAg\\_kEALw\\_wcB&gclsrc=aw.ds](https://one.nz/broadband/internet-plans/?utm_campaign=BB_SEM_PhoneNo&&&&gad_source=1&gclid=Cj0KCQjw-r-vBhC-ARIsAGgUO2AU19J3ai5MQktZa2pem064uXGNPgsrbpLOsJdfeVIRHgWy-CKw5KMaAg_kEALw_wcB&gclsrc=aw.ds)



summaries post-sale, when there is no evidence that this has any utility for consumers, is a disproportionate response not anchored in any clear objective or problem statement.

21. If after further research the Commission finds that there is sufficient evidence to show genuine consumer demand for certain information to be provided to them after sale, the Commission should give operators flexibility in how this information is provided. We understand from discussions with the Commission that the objective behind this proposal is for consumers to be provided a record of the order summary after sale. The Commission has suggested that operators should provide the personalised offer summary as an email attachment or embedded into the email. However, there are a range of other ways to achieve this outcome, such as providing a link to the offer summary with instructions on how a customer can download a copy of it or including information from the offer summary in operators' standard welcome communications or contracts.
22. []
23. Lastly, there are some practical challenges in how the offer summary information could be provided to pre-pay mobile customers. We typically only have the mobile number as contact information for pre-pay mobile customers and therefore couldn't send the information via email. This complexity supports the case for pre-pay mobile to be excluded from any new requirements relating to offer summaries.

## Early termination fees

24. The consumer research that the Commission has based the need for an intervention in this space states: 'Early termination fees, while relevant for some, appear to assume a lesser priority in the decision-making process, as potential customers often don't envisage requiring this information during their initial evaluation of service plans – with participants often

indicating that they would always stay for the term of their contract.<sup>7</sup> However, we recognise the importance of providing customers with transparency on the early termination fees (ETFs) that would apply if they exited the contract early. One NZ already provides a breakdown of fees, including in a table format, under the ‘important things to know’ dropdown for relevant fixed term broadband plans on our website, as well as the remaining amount payable for devices (such as interest free payment mobile phones and superwifi devices) on our bills.

25. The draft guidelines include a proposal for ETFs to be displayed on bills. One NZ has recently completed a major bill simplification programme. As part of this, we carried out extensive consumer research to determine the new bill design and what information customers want to see on their bill. Consumer views that fed into our bill redesign were derived from a number of different sources, including external qualitative consumer research, our own internal customer research, analysis of customer complaints (including Telecommunications Dispute Resolution (TDR) and the Commission’s data), and analysis of customer call records, field studies and extensive A/B testing. Our research showed that the key driver of bill complexity and confusion among customers was the inclusion of too much information on bills. In response to this, we took steps to remove extraneous information and limit the amount of information included in our bills to the key details that customers told us they want to see.
26. Displaying ETFs on bills is only one way to achieve the objective of the ETFs information to be readily available to customers without having to contact their provider. The consumer survey that the Commission has based this proposal on did not present consumers with a range of communications channels to choose from, instead asking a tailored question: ‘Early termination fees (ETFs) could also be shown on bills. How useful would it be for you to see this information on bills?’ This doesn’t constitute evidence that bills are preferred by consumers *over other communications channels* in this case.

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<sup>7</sup> [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0027/337671/Improving-RSQ-Product-Disclosure-Price-and-Cost-Research-14-December-2023.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0027/337671/Improving-RSQ-Product-Disclosure-Price-and-Cost-Research-14-December-2023.pdf), p. 40

27. The Commission's final guidelines should be focused on outcomes rather than being prescriptive in how the outcomes are achieved. If the Commission's guidelines are overly prescriptive, it needs to recognise that there are likely to be some timing and resource considerations. For example, making changes to invoices would be a significant piece of work. The Commission should avoid its interventions being unnecessarily complex and costly to implement when other more efficient avenues for achieving the same objectives are available.
28. Lastly, the Commission's RSQ roadmap for 2024 includes billing. If the Commission decides to proceed with its proposal to require operators to include ETFs on bills, we request that this is implemented at the same time as any other billing related requirements. As explained above, making changes to bills is a very complex and costly process [] – it is not practical or reasonable to require operators to make a series of continuing and piecemeal changes in this area. Interventions directed at bill presentation should be joined-up and enable operators to implement changes on a one-time basis.
29. Please contact the following regarding any aspect of this submission.

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