



Vodafone Aotearoa response to the Commerce Commission's Draft Baseline Report on Improving Retail Service Quality

15 October 2021

Executive summary

1. We support the Commission's findings that there are opportunities for our industry to move further and faster to improve our customer experience. Retail service providers know that there is more we can do to transform how consumers interact with our products and services, increase their ability to understand and tailor these products and services, and remove pain points from interactions. We are already doing a lot and it is encouraging to see that according to the survey:
 - a. 78% of consumers are happy with their provider¹;
 - b. 72% would recommend them²;
 - c. Fewer than 10% of consumers are overtly dissatisfied with any specific aspect of their providers' service³.
2. These are positive results that place the telecommunications industry in a better position than many others. While this fact is not acknowledged anywhere in the report, what is clear is that there are areas where more can be done. Customer experience is at the core of Vodafone's business. New Zealand consumers have benefited from intense competition over many years that has delivered low prices, a range of world-class networks and connectivity options, and continuous evolution of the services on offer. But the Commission's report tells us that consumers require more from aspects of service experience.
3. It is unfortunate that the Commission's report appears to give significant weight – certainly in its headline characterisation of pain points in the report's findings – to the

¹ Research New Zealand Consumer Telecommunications Survey 2021, 14 September 2021, p. 7

² Ibid

³ Research New Zealand Consumer Telecommunications Survey 2021, 14 September 2021, p. 27



findings of focus group research conducted by Research New Zealand⁴. This research involved 3 focus groups each lasting not more than 90 minutes and involving 6 participants. It is also clear that focus group research “*was undertaken with specific groups of consumers rather than a representative sample...the results have no statistical validity*”. It is therefore surprising that the Commission has elected to give such prominence in its pain point characterisation of focus group research.

4. Our comment above does not deny that improvement opportunities exist. It does, however, cast doubt on how the Commission has specified some of the key RSQ matters for improvement. Some of the matters raised by the Commission require further examination in order to understand the nature of the problem that is in focus and, therefore, the solutions that could effectively address that problem. We comment specifically on areas where further clarity is needed, as well as on some disagreement between conclusions in the Commission’s report and the independent research it has relied on.
5. What is abundantly clear is that for any solutions to effectively address the issues outlined by the Commission, the entire industry must be captured by any new rules, including smaller retailers and wholesalers. If the Commission is to overlay further obligations “*to improve retail service quality to reflect the demands of end-users of telecommunications services*”, it must impose those obligations on all parties whose actions influence this service quality.
6. This is why we also say that the TDRS must be mandatory for all telecommunications providers and the Commission’s forthcoming guidelines on marketing of alternative services must apply to the entire industry, including wholesalers and retailers that are not members of the TCF.

Response to consultation questions

Q1. Do you agree the proposed key RSQ matters need improving? Please tell us why, or why not.

7. Despite focus and investment by our industry over many years, we are aware of some of the consumer issues raised in the Commission’s report and agree that they need improving.
8. However, it does appear that the Commission has prioritised issues for attention based on the unwarranted weight it has given to qualitative research with an extremely small

⁴ Research New Zealand Qualitative Summary Report, 16 April 2021



and non-representative sample of consumers. By way of illustration, the conclusions that *'consumers find marketing of new technologies inconsistent and confusing, "up-to" advertised performance indicators do not give an accurate indication of expected performance'* and *'usage information is inadequate to assess appropriate plans'* which the Commission identifies as 'key RSQ matters for improvement' are mentioned nowhere in Research New Zealand's Consumer Telecommunications Survey⁵. The survey explores reasons why consumers have contacted their provider in relation to product disclosure⁶ but it is not accurate to suggest that where a consumer contacts their provider this, in itself, means that they are dissatisfied about something. It could equally mean that a consumer is simply seeking more information and advice about a product. This is also supported by the fact that 77% of consumers were satisfied with their contact with the provider relating to product disclosure⁷.

9. Reference to usage information, for example, only appears in a statistically invalid summary of discussion with 18 consumers, during which one consumer noted an issue of *"not being able to check on usage easily (BB)."*⁸
10. If the Commission does have further material that supports these conclusions and that industry action is therefore required to address them, then the Commission should release this material (not least because it will help inform the design of effective solutions).
11. In these areas, and others, much more careful examination is required to determine the nature and likely extent of the issue. As it stands, the articulation of issues in the research and the Commission's report do not make it clear what action is required to address them.
12. Below we outline our views on the specific RSQ categories.

Billing

13. It is encouraging to see that:
 - a. Only 4% of consumers that took part in the research were dissatisfied with their provider's billing⁹.

⁵ Research New Zealand Consumer Telecommunications Survey 2021

⁶ Research New Zealand Consumer Telecommunications Survey 2021, p. 54

⁷ Research New Zealand Consumer Telecommunications Survey 2021, p. 66

⁸ Research New Zealand Qualitative Summary Report, 16 April 2021, p. 17

⁹ Research New Zealand Consumer Telecommunications Survey 2021, 14 September 2021, p. 51



- b. 90% of consumers did not have an issue with their mobile bill in 2021, up from 81% in 2019, showing a clear improvement¹⁰.
14. Industry is putting measures in place to improve usage and spend information for consumers, including through annual summaries, as part of the mobile billing transparency workstream. This will help consumers understand their bills and avoid 'bill shock'. We propose that the effectiveness of these measures is assessed before further changes are introduced. Indeed, taking further action before the impact of these measures has been demonstrated would undermine industry's willingness to take future voluntary measures in collaboration with the Commission. There is simply no value in agreeing with the Commission on steps to be taken if these steps are not given time to work and efforts to implement them are wasted.
15. We will consider extending the requirement for annual summaries to broadband customers.

Customer service

16. We recognise a number of the key RSQ matters for improvement identified by the Commission. Others require better explanation as outline above. The characterisation of these matters, and how well the drivers of them are identified, will define solutions put forward by industry. This means it is vital that the Commission share as much detail as possible as to how consumers have articulated areas of concern to them.
17. To illustrate this point, one of the key RSQ matters that the Commission has identified for improvement is that '*consumers find it difficult to understand customer service representatives.*' The Commission's qualitative research gives the following colour to this issue¹¹:
 - a. "*Call centre operators don't understand my accent.*"
 - b. "*I would rather deal with local people, because they probably have more knowledge of where you are and also the accent is another thing. It's sometimes hard to understand these people. I'm not saying everyone is bad at English on the phone, but sometimes you do have that experience. In general, I think I prefer dealing with people in New Zealand.*"
 - c. "*And also, their understanding of jargon. They don't understand our way of speaking.*"

¹⁰ The Commerce Commission Improving Retail Service Quality – Draft Baseline Report, 14 September 2021, p. 22

¹¹ Research New Zealand Qualitative Summary Report, 16 April 2021, p.19



18. While this qualitative research has no statistical weight, it is worth considering the framing of issues in these verbatim statements and what scope of action is available to industry to address each of these issues as framed:
- a. In terms of front-line service representatives and customer understanding each other, Vodafone and other retailers will continue to pursue diversity and equality of opportunity in its employment policies. This will result in “new-New Zealanders” being employed in our contact centres. Industry has no role to play in insulating certain customers from the fact of increasing diversity in our society and workplaces. It’s also important to recognise that consumers who genuinely struggle with understanding others have the option of engaging in other ways, including through live-chat and self-service options.
 - b. Implicit in this comment is an assumption that any service representative who has a different accent is based overseas. That is simply not correct (see comment above). It is also unrealistic to expect industry to ensure that every service element requiring interaction between service representatives and consumers must be performed onshore. If the Commission does accept offshoring as part of how this issue should be characterised, then it needs to think very carefully about the implications of endorsing wholly New Zealand based service provision (including skill scarcity).
 - c. If we give the last comment its most generous interpretation, there may well be an opportunity for industry to further simplify the information that is provided to customers about products and services. Vodafone is extremely sympathetic to a communications approach with customers that focusses on the essential quality of the services being provided, not its technical characteristics and how it is delivered. Unfortunately, this is not an outcome that is supported by the Commission’s preference that consumers should be provided with increasingly granular technical information about services. This is exactly the outcome it has pursued through recent litigation with Vodafone regarding Fibre X. With respect, the Commission can’t have it both ways: it cannot take industry to task for confusing customers with too much jargon and technical information on one hand, while simultaneously penalising operators for not laying out in gory detail the technology inputs used to deliver the services delivered to customers. For industry to make progress in this area, the Commission needs to resolve this inconsistency and provide clarity on which approach it actually wants operators to pursue.



19. On a similar theme, it is unclear what problem definition is reflected in the Commission's view that *'consumers lack information about the installation process'*. The Commission's qualitative research provides the following colour which may or may not represent the views of the majority of consumers¹²:

- a. *"Would have liked more face-to-face support, as I had difficulty integrating changes to my household technology."*
- b. *"I lost my landline during the broadband installation. It had to be installed over the phone."*
- c. *"I had to wait weeks for it to be done."*
- d. *"It was actually really tricky having to stay home and make sure that someone was there for the fibre. It's a pain. That was one of the things not so good about the experience."*
- e. *"It requires a person to be present at home. The schedule of the installation depended on the availability of the contractor and didn't consider availability of the homeowner."*
- f. *"Many boxes in the house. There is a box that converts the signal and then another box and a couple of adaptors. So, there is a lot of gear sitting there collecting dust. Also, a filter, quite big, dangling around!"*

20. It is worth exploring some of the themes indicated by this commentary. At the very least, these comments confirm that issues relating to the installation process can't be resolved without collaboration across all part of the industry. It is simply not within the gift of retailers alone to solve these problems. It is clear that the majority of installation issues related to fixed broadband services¹³ and it is critical that wholesalers are fully in scope of any future regulatory solutions. Remaining issues relate to the integration of household technology with connectivity solutions provided by industry. What's unclear is to what extent the Commission believes industry is responsible for integrating consumers' household technology with connectivity where that connectivity is provided by third parties. Third party providers bear responsibility for supporting consumers to ensure integration of their technology – this responsibility cannot be shifted to the telecommunications industry.

21. Finally, we note that sometimes customer service issues arise due to matters that are out of RSPs' control. One example is cases linked to Chorus' copper withdrawal and Spark's PSTN shutdown, which we explained in detail in Vodafone's response to the

¹² Research New Zealand Qualitative Summary Report, 16 April 2021, pp. 9-10

¹³ Ibid.



Commerce Commission's open letter on marketing of alternative services¹⁴. From Vodafone's experience, a major source of customer confusion arises from the disalignment of communications relating to copper/PSTN withdrawal despite the base of affected customers overlapping. A customer may receive multiple communications containing different messages and causing confusion, as most customers do not understand the difference between copper voice and copper broadband being withdrawn – both are part of the same essential service from a customer's perspective. This serves as a clear example why any future RSQ code must apply to wholesalers equally.

Product disclosure

22. We agree with the principle that the telecommunications industry must be transparent in the product information that we present to consumers. We do this through our compliance with the TCF's Broadband Product Disclosure Code, as well as the Fair Trading Act (FTA).
23. Furthermore, a number of different workstreams are currently underway within industry to address some of the product disclosure issues outlined in the Commission's report, including:
 - a. Industry is developing a framework for sharing plan information with mobile comparison tool providers which will help consumers compare plans more easily. Consumers will also be able to draw on the mobile usage and spend information to be provided to them from next year to help them make the decision on what plan is the most suitable for their needs.
 - b. We have concerns about the impact that commercial factors have on how comparison websites rank plans. For example, some comparison websites are funded partly by RSPs paying for promotion of their plans. This leads to consumers not being given entirely neutral results, undermining the integral purpose of the service which is to enable consumers to easily compare and choose a plan best suited for their needs. The increasing use of comparison websites begs the question whether comparison providers should be captured by the RSQ regulations. For these providers to play a role in enabling consumers to better understand and compare services across providers, it's important that these plans are not skewed by the commercial arrangements with the comparison provider that incentivise it to promote some providers and services

¹⁴ Vodafone Aotearoa response to the Commerce Commission's open letter on marketing of alternative services, 27 August 2021



over others. Such arrangements undermine the 'honest broker' position that the Commission seems to assume that comparison providers will play. If comparison providers are to play an increased role, then the Commission should consider the case for introducing an accreditation scheme – similar to the one run by Ofcom in the UK¹⁵ – to ensure comparison tool providers are held to set standards. This would add a layer of protection and help avoid consumers being misled.

- c. The TCF is in the process of reviewing and updating the Broadband Product Disclosure Code with the aim of further reducing complexity for consumers when choosing a broadband plan. As part of this, industry is considering alternative ways in which performance indicators such as speed could be presented to consumers. It is important that industry is provided with an opportunity to come up with any new standards that are workable and do not result in further confusion for consumers – noting the clear balance that needs to be struck between providing more information to consumers while also not adding to the challenge of '*understanding of jargon*' noted above, which the Commission also sees as a problem. As the Commission will be aware, there is significant complexity to advertising speed and conditions experienced by individual consumers which have an impact on their broadband speed will vary, including due to factors that network operators do not control. We outlined our concerns in detail in Vodafone's response to the Commission's open letter on marketing of alternative services¹⁶. In particular, further consideration is required on whether marketing of new technologies will become more confusing if retailers are required to provide more technical information and detail to consumers.

24. If industry is to change the way that speed is presented to consumers, it is critical that any measure that is adopted across industry is based on independently verified evidence. Using SamKnows could be a solution if greater rigour and consistency is assured around how it measures broadband performance and is consistent with real world experience by most consumers. Currently, testing by SamKnows is carried out using hard-wired connections and measures performance to the router/modem. This does not reflect the typical experience of most end users, who experience broadband services via WiFi connection. Unless the testing methodology used by SamKnows

¹⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0025/204982/statement-digital-comparison-tools.pdf

¹⁶ Vodafone Aotearoa response to the Commerce Commission's open letter on marketing of alternative services, 27 August 2021



evolves to reflect how broadband services are actually consumed by end users then it will:

- a. exacerbate the gap between consumers' performance expectations and real world performance;
 - b. distort perceptions of different access types.
25. It is also important to raise awareness among consumers of the speeds they actually require to meet their needs. A significant number of consumers do not demand or need fast speeds to deliver their broadband experience – they could be light users who use broadband for emails, video streaming, web-browsing, making VOIP calls etc, where a low minimum speed (and stability) suffices. Putting emphasis on speed as the most important dimension of service quality ignores this reality. The Commission has a role to play in educating consumers about what speeds are right for their needs. This is particularly important in order to ensure that consumers do not end up overpaying for broadband services they don't actually need. In this context, it becomes even more difficult to understand decisions now being made by the Commission to support Chorus to incentivise the uptake of fibre services over other access technologies in a costless way by including an incentive allowance within Chorus' maximum allowable revenue for fibre services. Action that the Commission takes to address RSQ matters needs to form part of a coherent and consistent approach to issues across the full range of touchpoints with industry. Unfortunately, there is at present a lack of consistency with different approaches and incentives being prioritised across different programmes of work.
26. One way of mitigating the risk of overselling is to require all RSPs to provide information to consumers relating to the speed needed to undertake common internet activities, including browsing, email, downloading media files and streaming music/films at standard and high-definition quality. This requirement is in place as part of the Better Broadband Speed Information Code in the UK, which also states that 'the information given must be broadly consistent with the speeds for these activities defined by Ofcom'¹⁷. We have concerns that moving away from advertising speeds using 'up to' terminology, as previously proposed by the Commission, may cause further disparity between consumer expectation and the reality of the fact that services can be affected by a range of factors that are out of providers' control, including in-home factors that are simply not visible to providers.
27. Regarding the marketing of services generally, there is already a significant amount of information to communicate to consumers in typical broadband advertising. For example, it's seldom the case that a plan is being marketed as-is with no associated

¹⁷ https://www.ofcom.org.uk/data/assets/pdf_file/0026/111698/statement-voluntary-code-practice-residential.pdf



special offer. Typical marketing needs to encompass the price and inclusions of the plan, together with the details of the special price offer or hardware inclusion. As we note above, adding more technical information in upfront advertising risks overwhelming consumers and may mean they miss other important information about the plan they are selecting. In either case, the Commission must take an aligned position across all workstreams currently underway that relate to product disclosure: this consultation on RSQ pain points, marketing of alternative services and the TCF's review of the Broadband Product Disclosure Code, as well as the enforcement approach taken by the Commission on Fair Trading Act matters. Clarity is needed on how the outputs of all these various workstreams are intended to hang together, e.g. does the Commission envision a new RSQ Code that incorporates and consolidates existing industry codes?

28. The Commission must also be cautious as to how far they go in standardising products presented to consumers to avoid any new regulations having a negative impact on competition. It risks stifling innovation on how providers deal with a broader range of consumer needs and wants. For example, the Commission raises a consumer pain point that *'plans are complex with a lot of add-ons and bundled offers.'* This is an area that RSPs compete on and caution is needed not to curb this competition.
29. Lastly, we note that some consumers raised issues around service performance, including services not meeting their expectations, for example:
 - a. *'Inconsistent quality/reliability throughout the house.'*
 - b. *"Some places, there isn't good coverage, especially rural areas."*
 - c. *"I lose my connection in strong winds or storms."*
 - d. *"Black-spot/dropouts/off, especially on road trips, but even in residential areas like at some friends places and Queensgate...¹⁸).*
30. Consumers are clearly entitled to accurate information about the performance of services they buy, as reflected in our obligations under the FTA. Conversely, it is important that consumers have realistic and informed expectations about how these services work. For example, it is unrealistic for consumers to expect that services can be delivered to all rural areas regardless of the remoteness and population density in an area, and to expect that where services are provided, they will be unconstrained. Services in remote locations are provided under different conditions and using different technology options than in cities or towns. It's unrealistic to expect otherwise. This means, for example, that in rural areas there may be locations where coverage is better or worse. Even in towns and cities, there will be instances where a service cannot be provided or where service quality is reduced (including in-building coverage). This does

¹⁸ Research New Zealand Qualitative Summary Report, 16 April 2021, p.16



not indicate an RSQ matter for improvement, rather it is a practical demonstration of how radio spectrum works.

The switching process

31. Further clarity is needed on the specific issues consumers face in relation to switching, as research shows that the majority of consumer complaints are actually about installation of services (e.g. 'the inconvenience of having to wait for long periods at home for contractors', 'long wait times for installation to be completed', 'appointment times for installation'¹⁹). In addition, the 2019 consumer ISP survey found that delays with the connection was the most common problem experienced by consumers who reported experiencing a problem with switching,²⁰ again suggesting that most issues arise with the installation process specifically.
32. The latest research found that only '3% of internet users and 2% of mobile users had an issue with the disconnection of a service (including switching to a new company)', while only '10% of internet users and 5% of mobile users had an issue with a new connection/installation.'²¹ These figures suggest that the current process is robust. However, we would welcome the Commission examining this area further if there are indeed issues that could be solved to improve the switching experience for consumers.
33. In the 12-month period between 1 March 2020 – 28 February 2021, 257,780 fixed line numbers were ported.²² This suggests that the number of consumers switching their fixed line service providers is significant. These figures appear to paint a contrary picture to the Commission's conclusion that 'consumers expect switching to be difficult'.

Contract issues

34. We note that the Commission's report refers to a concern about unilateral changes in contract terms.
35. Unilateral variation rights are a common feature of standard form contracts, and are not inherently unfair. They are a legitimate mechanism which enable businesses, particularly those with large customer bases, to flexibly and efficiently amend terms to accommodate necessary updates (e.g. to respond to improvements in products and technology, or changes in legal requirements) without having to obtain individual

¹⁹ Research New Zealand Qualitative Summary Report, 16 April 2021, pp. 9-10

²⁰ The Commerce Commission Improving Retail Service Quality – Draft Baseline Report, 14 September 2021, p. 34

²¹ Ibid.

²² TCF Number Portability Data from the IPMS



customer approval. As the Commissioner's own guidance recognises, 'unilateral variation clauses can be legitimate' and 'it is not always practical for large business to agree all variations with their customers.'²⁵

36. Unilateral variation clauses are already appropriately regulated under the Unfair Contract Terms framework under the FTA. Under that regime, terms in standard form consumer contracts, including unilateral variation clauses, can be declared "unfair" if, among other things, they are not reasonably necessary to protect a business' legitimate interests. If so, the term would be unenforceable. That could apply to a unilateral variation clause where, for example, customers are "locked in" to a business' amended agreements and cannot cancel without paying fees. But, appropriately, that position does not apply by default, and requires a considered application of the definition of unfairness under the FTA.
37. The Commission carried out an extensive Unfair Contract Terms review in 2016. As part of the review, ability to unilaterally amend terms to introduce detrimental changes was considered. Vodafone subsequently amended contract terms to ensure that customers would be given adequate notice of any detrimental change (even minor detriment). Changes were also made to enable customers to leave without early termination fees if a detrimental change was made and ensure that customers were informed on their rights in relation to this. However, the Commission did not in the review question whether an ability to amend terms is necessary. Any real analysis of how telecommunications services are provided, and the technology and vendor base used to deliver them, would confirm the obvious case for this necessity.
38. It is unclear what exact issue is that the Commission seeks to solve here. Our view is that the existing regulatory framework for unilateral variation clauses already allows for suitable intervention where required. The Commission needs to be very cautious about using RSQ requirements to further restrict industry's ability to make justifiable changes to the terms on which services are provided in compliance with existing law.

Debt practices and affordability

39. We note that decisions on whether or not to provide a service based on affordability are not inherent in the service provided – they are separate assessments of customer means. The Commission's summary of the sources used to compile its list of RSQ

²⁵ https://comcom.govt.nz/_data/assets/pdf_file/0020/86123/Unfair-contract-terms-Gym-contracts-review-August-2017.PDF, paragraph 115.



matters²⁴ makes clear that it has not sought submissions from RSPs on the existence or content of debt management, customer support or affordability policies or processes. Indeed, it is unclear what information sources the Commission has relied on to inform its view of existing industry debt management practices. We ask that the Commission clarify this and proactively release this to enable informed comment by industry.

40. The Commission cannot include these matters within RSQ without properly understanding existing industry approach, which has not been done. Accordingly, we question the Commission's decision to draw from very high-level consumer feedback on pain points to conclusions like '*RSPs do not appear to have adequate consumer support, or debt management, policies.*' The consumers who took part in the research won't necessarily know this.
41. Vodafone has stringent policies and procedures in place in relation to debt management and affordability.
42. Finally, the Commission needs to acknowledge the challenging tension that industry has, in the context of Covid-19, been required to navigate between keeping customers continuously connected even where some may struggle with affordability and may, as a result of continuing to use services, become more indebted. This situation can arise even where steps have been taken to reduce the charges incurred by consumers to a minimum or take other steps to recognise hardship. From a debt management perspective, a responsible approach towards a customer who cannot afford services and cannot meet their payment obligations is to restrict services or disconnect these. From a social equity and wellbeing perspective, this is an extremely poor outcome, particularly in a period where digital connectivity is essential to wellbeing, access to services, and social and economic participation. It's unclear to us how the Commission would propose resolving this tension or whether it has given it any consideration. What is clear however is that it is not for industry, through the Commission's RSQ process, to be allocated responsibility for solving fundamental affordability challenges that are rooted in wealth and income distribution: that is a general social policy problem, not an industry one.

Q2. Do you agree that debt and affordability practices fall within the scope of RSQ? Please tell us why, or why not.

43. Debt practices and affordability should be in the RSQ scope only to the extent that they have a necessary connection with the quality of retail service.

²⁴ The Commerce Commission Improving Retail Service Quality – Draft Baseline Report, 14 September 2021, paragraph 41



44. This area requires further consideration by the Commission. As noted above, much better definition is required of the debt and affordability problems that the Commission believes industry needs to solve. If the Commission's view is that there is a specific threshold at which consumers should not be provided with services, it needs to be directive on this – because such an approach raises wider issues around equitable access to connectivity and the Commission needs to be equally accountable for a change in approach here. Also, as noted above, industry alone will not accept ownership of any 'general affordability' problem for telecommunications services. OECD figures show that New Zealand compares favourably in terms of affordability and prices of services are not high by international comparison²⁵. If the view remains that work is required to make services more affordable, then this requires a broader government response, including work to specifically subsidise services for those consumers that cannot afford them.

Q3. Do you agree that we should only maintain a watching brief over the matters in paragraph 53? Please tell us why, or why not.

45. Vodafone agrees that the Commission should only maintain a watching brief over matters outlined in paragraph 53.

Q4. Of the proposed key RSQ matters, which ones do you think we should address first? Please tell us why.

46. As outlined above, some of the key RSQ matters raised by the Commission need further examination before appropriate solutions to addressing those issues can be considered. It is also important to understand the scale of those matters, particularly whether they are widespread industry issues or issues consumers experience with a handful of specific providers.

47. We would support product disclosure category being prioritised by the Commission, given that this closely interlinks with industry's existing work on the Broadband Product Disclosure Code, as well as the Commission's forthcoming guidelines on marketing of alternative services which industry will be required to develop into a code. There is a case for the Commission being involved in the creation of this code to ensure that it is fully engaged with and understands that complexity of some of the issues involved and the trade-offs that will be involved in addressing these.

²⁵ https://comcom.govt.nz/data/assets/pdf_file/0021/212763/2019-Annual-Telecommunications-Monitoring-Report-Revised-version-12-March-2020.pdf



Q5. Do you think an industry or Commission RSQ code would improve the proposed RSQ matters? Please tell us why, or why not.

48. Industry code is always a preference. However, the Commission needs to make it clear that this code will need to apply to the entire industry, including smaller retailers and wholesalers. Absent that, it is likely to be impossible to develop an industry code. A code that doesn't apply to all industry players will fail to effectively address the consumer pain points outlined by the Commission.
49. Clarity is needed on whether the Commission intends for the new RSQ Code to overwrite existing Codes that cover some of the consumer pain points in the report, such as the Broadband Product Disclosure Code. The Commission should be cautious not to duplicate requirements across multiple codes as it would create compliance complexity.

All industry players need to be part of the solution

50. We reiterate that it is critical for the entire industry – including smaller retailers that are not members of the TCF and wholesalers – to bear equal responsibility for improving retail service quality.
51. Some of the issues consumers face that are included in the Commission's report are completely out of RSPs' hands, including fibre installations, speeds (for fixed broadband services), issues relating to copper withdrawal. It is therefore crucial that the same service quality standards apply to wholesalers.
52. The Commission's reasons for excluding wholesalers from the scope in the RSQ process to date has not been explained and is not understood, as raised at length in Vodafone's response to the Commission's open letter on marketing of alternative services²⁶. To the extent the definition of 'retail service quality' in s5 of the Telecommunications Act 2001 is relevant to the Commission's current approach, we would note that reference to 'the quality of retail service provided to an end-user of the service' does not exclude the potential for conduct by both wholesalers and retailers to affect that service quality.
53. Excluding wholesalers from any future RSQ measures is unjustified and unreasonable. If the Commission is serious about improving outcomes for consumers, wholesalers must also comply with any future rules in this area, otherwise policy objectives that are being pursued through this work will not be achieved.

²⁶ Vodafone Aotearoa response to the Commerce Commission's open letter on marketing of alternative services, 27 August 2021



Confidentiality

54. Confidentiality is sought in respect of the information in this submission that is contained within square brackets and 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.

55. 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

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

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