



Submission on the Improving Retail Service Quality; Draft Baseline Report

15th October 2021

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Introduction

1. TUANZ is pleased to submit in relation to the Draft Baseline Report released by the Commerce Commission on the 14th September 2021 as part of the Improving Retail Service Quality programme of work. This submission is a Public Version and contains no confidential information.
2. Our address is PO Box 65503, Mairangi Bay, Northshore 0754 or Level 7, 62 Victoria Street West, Auckland Central. Our email address is office@tuanz.org.nz and our website can be found at <https://www.tuanz.org.nz>.

The Technology Uses Association of NZ Inc (TUANZ)

3. TUANZ is the association for the users of digital technology and connectivity which is in its 35th year since incorporation. We are unique - **we believe there is no other group or organisation that is representative of the people and organisations that are the end users of digital technologies in the manner that TUANZ is. We value our independence and will always seek to speak for users without undue influence.**
4. Our member's want to see a lift in the digital economy along with the continued development of strong markets across the technology and connectivity sectors providing real choice for end users – whether corporations or consumers. We seek a national drive to leverage the opportunities that we have with our world leading digital networks. **TUANZ has the vision where New Zealand is one of the top 10 digital ready nations by 2030.**
5. TUANZ position is consistent and clear: **The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**
6. TUANZ is a not-for-profit membership association with over 170 members, predominantly large organisations with a strong dependency on digital technology and connectivity as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

Introduction

7. TUANZ has been a key advocate over the years on many of the positive changes to the telecommunications market in New Zealand. We participated fully in the most recent review of the Telecommunications Act, with strong advocacy positions around the need to improve the overall service performance at both the wholesale and the retail level.
8. In our submission on the draft bill, we supported the move to require the Commerce Commission to monitor the performance within the telecommunications market and specifically the requirement to hold the industry to account on their report on retail service quality.
9. We also supported granting the Commission the ability to establish regulated codes in the area of service quality. We would strongly suggest that one of the tests that the Commission should use in identifying whether the industry fails to establish codes of sufficient standard is the level of consultation with user groups such as ourselves when developing any such code.

Consultation Questions

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

10. We agree that the list of proposed retail service quality matters need improving. We participated in the consumer group workshops and shared that our major issues that we would like to see addressed are covered in the list that the Commission has identified.
11. Specifically we support those in the areas of:
 - a. Billing - customers experiencing errors, struggling to understand their bill and some still experiencing bill shock from unexpected charges.
 - b. Customer Service - long wait times and long wait for resolution
 - c. Product Disclosure - providers use confusing marketing, service does not match the information, and product disclosure is inadequate
 - d. Switching - there is an element of inertia due to consumers believing it to be difficult and time consuming

12. As part of our concern over the last two topics - product disclosure and switching - we commissioned the Behavioural Insights Team (BIT) to review and update an earlier report provided to the Commerce Commission in 2019 entitled “Addressing inertia and complexity in New Zealand’s telecommunications market”.

Product Disclosure

13. In our recent submission on the Commerce Commission’s open letter in regards to marketing of alternative services to consumers during copper/PSTN withdrawal¹ we covered the issue of complexity and confusing marketing in the communications market. In the submission we quoted the report that we had commissioned from BIT as follows:

“This complexity is also evident in the broadband market. Broadband customers need to choose between the type of connection (ADSL, VDSL, fibre, hyperfibre or fixed wireless) and the data cap.

Each of these services delivers different service experiences. Each has certain attributes around service quality such as consistency of speed, network congestion, and the simple nature of how fixed wireless networks act when busy. However, these differences are not clearly set out in the marketing and sign-up processes of providers. And although the market has a product disclosure code, it is unclear that this code meaningfully helps consumers compare different plans. A recent report by the Australian Securities and Investment Commission and the Dutch Authority for Financial Markets shows the limits of disclosure schemes, emphasising that ‘Simplifying disclosure does not solve complexity’, ‘Few consumers pay attention to disclosure’, and ‘Warnings can backfire’.²” BIT Report, p19

14. We offered a number of proposals to improve product disclosure standards and we would refer the Commission to that submission. In summary these were:
- a. Follow key guidelines when presenting complex information

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<https://tuanz.org.nz/27th-august-2021-submission-to-commerce-commission-on-marketing-of-alternative-services/>

² ASIC and AFM (2019). Disclosure: Why it shouldn’t be the default: A joint report from the Australian Securities Commission (ASIC) and the Dutch Authority for the Financial Markets (AFM). Retrieved from <https://download.asic.gov.au/media/5303322/rep632-published-14-october-2019.pdf>

- b. Test the best ways of presenting information to maximise understanding and optimal decision-making
 - c. Test what information should be included in a product disclosure statement (PDSs)
 - d. Ensure information presentation standards are imposed by regulators
 - e. Hold providers accountable for the outputs of consumer choices
15. We noted that these proposals had varied levels of feasibility and we made the following recommendation:

That this new code replaces or updates the Product Disclosure Code with requirements to present information about services clearly in simple to understand statements which are easily accessible for all users.

16. Rather than repeating the detail included in our previous submission, we request that the Commission consider it as part of this submission as well.

Switching

17. The BIT report also addressed the inertia in the NZ market around switching providers. **Inertia describes a person's tendency to stick with the default option by taking no option.** The report indicates that inertia is driven by three main factors: ease, endowment and endorsement. Ease and endowment are the two key factors seen in the telecommunications market. The report finds that endorsement does not typically drive or encourage switching.

18. **Ease** refers to the fact that the default option is often chosen because it requires no action, awareness or attention.

“In New Zealand, surveys suggest 68 percent of consumers ‘rarely’ or ‘never’ compare mobile plans offered by other providers.”³

19. The report goes on to suggest:

“The ease channel also means many consumers only switch in response to a triggering event - receiving a bill that is much higher than expected (‘bill shock’) is strongly associated with switching, as are smaller prompts such as notification of changes to a plan.”⁴

³ P11, BIT Report, referring to ConsumerNZ (2018)

⁴ P11, BIT Report

20. **Endowment** is where the person believes that the default option reflects the status quo. In BITs previous report they highlighted that consumers who are older and have had a longer tenure with a provider are less likely to switch providers.
21. The BIT report found that inertia in the NZ market is widespread and the relevant section from the report is included in the submission as Appendix One.
22. In the scope for this revised report we also asked BIT to review international experience and provide a range of possible solutions to address the issue of complexity. We asked them to give an indication of the impact of each solution and the feasibility of implementing these in the New Zealand market. They provided five proposed solutions as follows.
23. **Make small changes to reduce frictions to switching** (Feasibility = high; Impact = low). This includes the idea that comparison tools are helpful in promotion switching, but that they need to be as easy as possible to use. Other changes might include making it as easy as possible for users to access their data and use it in a comparison tool. There is significant promise in the current proposal from the industry based on Commission work around the three MNOs commitment to provide usage data and the prospective consumer data right. Four key principles to maximise the utility of this work are:
- a. Keep it simple and visually attractive
 - b. Have a call to action
 - c. Minimise the steps to use the CDR and comparison tools
 - d. Draw on social norms
24. **Provide the cheapest options directly to consumers** (Feasibility = medium; Impact = medium). This refers to the requirement for an independent third party to provide this information regularly or on request. Because of the need to develop a complete process and the access to customer data, this option has a lower feasibility.
25. **Take extra effort with 'sticky' consumers** (Feasibility = medium; Impact = medium). This might be implemented in the form of a requirement on providers to provide information to long-tenured customers who have had no change to their provider or their plan over that time. The BIT report also includes more radical suggestions around having the opportunity for providers to be able to compete for these long-tenured consumers

including the option of a ‘reverse auction’ although in our view this suggestion has a low level of feasibility of implementation in our market.

26. **Consider automatic switching** (Feasibility = low; Impact = high). This option is the one with the lowest friction where the friction is removed completely in automating switching. There are global examples in the energy industry where the product is relatively homogenous, but has a low feasibility in the telecommunications sector due to the complexity of the services and products and BIT was unable to find any successful examples of this option. BIT conclude:

“Whilst this is a relatively different approach to market design, it is worth noting that it is under consideration in other markets and jurisdictions, and that it is the closest to a conceptual ‘free market’, where consumers have perfect information and do not face transaction costs.”⁵

27. While we recognise that these options include a number that would be difficult to implement, we have provided them in this report to encourage engagement around what might be considered and to support our agreement with the Commission’s focus on these areas.

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

28. We support the Commission’s view that these practices, as further defined in paragraphs 50.1 and 50.2, fall within this scope of RSQ.
29. In our understanding, the practices around affordability would only apply to when the customer is being on boarded as part of a sales process.
30. While we do consider there is work to be done around affordability for New Zealanders who are currently digitally disadvantaged, we do not believe that this workstream is the right place to solve that issue.

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

⁵ P18, BIT Report

31. We agree that the Commission should maintain a watching brief on the issues in paragraph 53. This does not mean we consider these issues to be inconsequential and recommend that the Commission be proactive in monitoring these issues.

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

32. In paragraph 11 we outlined the issues we considered to be those that we are most concerned about. In principle though we suggest that the issues that should be addressed first are those that are the simplest to implement and have the most impact.
33. In our view Billing issues appear to be one of the most consequential areas which cause a large number of complaints and issues, and they are able to be relatively easily addressed by providers by making changes to their internal systems.
34. We are then of the view that customer service, product disclosure are the next issue that should be addressed. Followed by Switching which might require significant industry collaboration.

5. Do you think an Industry or Commission RSQ code would improved the proposed RSQ matters? Please tell us why, or why not.

35. We generally favour the Commission issuing guidelines that enable the industry to develop codes that address these. However, the concern we have in this situation is that voluntary industry codes developed by the Telecommunications Forum (TCF) only apply to those providers who are members of the TCF.
36. Our position is that any code that is developed should apply to all providers in the market. If that requires a Commission code then then that would be our preference.

Final Comments

37. TUANZ welcomes the opportunity to provide the Commission with this submission in regards to the Draft Baseline Report for Retail Service Quality. This paper provides a summary of feedback from our organisation that represents actual users of technology and digital communications. We have attempted to provide a succinct and clear enunciation of the views of our members.
38. We look forward to working further with the Commission on this matter..

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Appendix One : The Broadband Market in 2021. BIT Report, pages 12-13

Inertia in New Zealand's telecoms markets is widespread

As highlighted in our 2019 report, in every country in Europe at least a third of consumers have never switched their telecom provider, and the figure is as high as two thirds in some countries.⁶ Similarly in New Zealand, surveys from 2018 show that 43% of people had not switched internet providers in the last 5 years and 54% had not switched mobile providers.⁷

The latest 2020 data also suggest switching rates in New Zealand are low. For example, churn⁸ for residential broadband connections with a voice plan was 12.9%, while churn for naked broadband connections was 18.8%.⁹ Churn for prepaid mobile plans was higher at 54.5%, while churn for on-account residential and business mobile plans was low at 10.3% and 12.8% respectively.¹⁰

The churn figures above may overstate switching, because they show terminations which do not necessarily imply the user switches to a new provider in New Zealand. Given that most terminations which are not from switching are from people moving overseas, the 2020 churn figures above should give a good picture of switching rates.

Inertia is also higher in the telecom sector than in other similar sectors. For example, 12-month switching between electricity providers was over 20% in April 2021, and has been between 16% and 21% for the last decade.¹¹ There is evidence that lower inertia in the electricity sector has been boosted by the introduction of a consolidated comparison tool which allows consumers to easily see the potential gains from switching. In 2011 the Electricity Authority introduced the *What's My Number?* website — and boosted the functionality of the *Powerswitch* website which has since merged with *What's My Number?*¹²

⁶ Lunn, P. D., & Lyons, S. (2018). Consumer switching intentions for telecoms services: Evidence from Ireland. *Heliyon*, 4(5).

⁷ Consumer NZ (2018). Telco survey: Mobile and internet service providers

⁸ Here churn refers to the number of connections or plans that were terminated as a proportion of the total number of connections or plans.

⁹ Commerce Commission (2020). Telecommunications Industry Questionnaire: 2020 aggregate responses. Survey.

¹⁰ Ibid

¹¹ Electricity Authority (2021). Switching trends. Webpage. Retrieved from https://www.emi.ea.govt.nz/Retail/Reports/R_SwT_C

¹² Consumer (2019). Price comparison websites What's my Number and Powerswitch merge. Webpage.

— to highlight a household’s gains from switching electricity providers. The *What’s My Number?* and *Powerswitch* initiatives were evaluated in 2013, and were found to: increase residential switching rates from 62,000 to 79,000; increase net welfare by \$500,000 over three years (which is low compared with the \$15 million cost of the initiatives); and to increase competition between providers.¹³ Inertia may also be lower in the electricity sector because the product is relatively homogenous, meaning price is the main factor for consumers to consider across plans. In contrast, different telecommunications plans and products are more complex and can be harder to compare, which is a point we return to in the *Complexity* section.

Some providers make use of inertia with ‘inertia selling’

One lesson from our 2019 review was that providers appear aware of consumer biases in telecom markets, and leverage these biases to increase their revenue. One example of this is *inertia selling*, in which a provider offers an unsolicited new product or service, and the consumer has to take action to not receive the new product or service. In 2019 Spark was investigated for contacting customers with a home phone service, encouraging customers to let Spark move them off the copper network and onto Spark’s wireless network, and sending customers home phone kits by default which customers were asked to install or return to Spark (at the provider’s expense).^{14 15}

Retrieved from

<https://www.consumer.org.nz/articles/electricity-authority-and-consumer-nz-merge-price-comparison-websites-whatsmynumber-org-nz-and-powerswitch-org-nz>

¹³ Prior, M. (2018). Search and Switching Costs in the Services Sector: Literature Review. MBIE Summer Scholarship Research Paper.

¹⁴ Stuff (2019). Commerce Commission assesses Spark ‘inertia selling’ complaint. Article. Retrieved from <https://www.stuff.co.nz/business/113457590/commerce-commission-assesses-spark-inertia-selling-complaint>

¹⁵ Stuff (2019). Chorus ‘deeply uncomfortable’ with Spark home-phone sales move. Article. Retrieved from <https://www.stuff.co.nz/business/113418141/chorus-deeply-uncomfortable-with-spark-homephone-sales-move>

