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15 March 2024

## Retail Service Quality - Draft Product Disclosure Price and Cost Guidelines

Mercury welcomes the opportunity to provide feedback to the Commerce Commission (the Commission) on its *draft Product Disclosure – Price and Cost Guidelines* (the Guidelines) published on 14 December 2023. We appreciate the time allocated to this consultation process.

Mercury is a New Zealand electricity generation and multi-product utility retailer of electricity, gas, broadband and mobile services.<sup>1</sup> We are listed on the New Zealand Stock Exchange and the Australian Stock Exchange and the New Zealand Government holds a legislated minimum 51% shareholding. We have recently streamlined our business to ensure we continue to deliver innovative services that provide value and convenience to our customers. We are strong advocates of customer welfare across the industries in which we operate, and we constantly challenge ourselves to better understand the needs of our customers and community and how best to meet them.

Our response to this consultation focuses on:

1. the practical implications of the proposed guidelines;
2. displaying early termination fees (ETFs);
3. changes to critical details, such as the bill, should be done as part of the billing RSQ workstream;
4. some additional comments regarding implementation timeframe, and ex-post reviews

The purpose of these Guidelines is to enable consumer's access to make fully informed decisions (enhancing information availability) about which Retail Service Provider (RSP) and plan is best for them, as well as enable them to compare (standardising information details) plans by the same or different RSPs. The key to successfully implementing these Guidelines will lie in finding the right balance between providing enough detailed information to increase transparency and simplifying this information through standardisation to facilitate comparison. This involves careful consideration of what information is presented, where is it first provided to the consumer and how it is formatted to ensure that it meets the needs of a wide range of consumers. Our submission should be read alongside the Telecommunications Carriers Forum (TCF) submission.

### Practical implications of the proposed Guidelines

RSPs face existing requirements regarding the marketing of broadband services and there are existing industry codes and Commission guidelines that support standardisation. The industry currently provides standardised offer summaries to broadband consumers; Mercury's are available [here](#) and NOW [here](#). We acknowledge that mobile services do not have standardised offer summaries yet, and we are supportive of the development of these. We also provide our customers with a clear and accessible copy of the terms and conditions of their purchased plan for future reference.

In Mercury's experience, merely requiring more information to be disclosed and standardising information details may still not fully unlock comparison. Furthermore, measuring the impact of information disclosure and standardisation is complex.

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<sup>1</sup> Mercury acquired the outstanding shares in the broadband company NOW NZ in December 2022.

Classification: General



Various biases and heuristics can be at play as well as cognitive and time limits when people are making decisions. There are complex trade-offs involved between additional disclosure requirements, standardisation and consumer choice.

The draft Guidelines require the inclusion specific information in a Standard Offer Summary (SOS) during the sales process and a (personalized) offer summary after the sale. Documents must include the average monthly price, the total minimum cost, and any early termination fees (ETFs). This would likely lead to lengthy disclosure documents.

We remain of the view that simply providing information without considering the consumer's ability to understand it, nor assessing whether its relevant at the time it is provided, is unlikely to translate into better decision-making for consumers. Instead, the sector ought to focus on further simplifying the presentation of the most critical information during and after the sales process without creating overwhelm. More broadly, we recommend further consultation on what information elements are critical pre and post-sale, and where and how these might be best presented.

In addition, for broadband plans bundled with electricity, we are unclear whether the bundle of services must be incorporated in the SOS and if so how. We would welcome specific guidance from the Commission on this matter to avoid confusion and ensure clarity for consumers and retailers.

### **Displaying EFTs**

EFTs are a key element of the sales disclosure process. We understand the Commission is particularly interested however, in ways customers can readily access information on what they would have to pay if they cancelled their plan that day, without having to contact their provider.

While all consumers should have a clear and accessible record of their EFT if applicable, it is also true that direct communication enables us to work alongside consumers about their service options and resolve underlying issues that might not be apparent through digital channels alone. The feedback obtained through direct interactions is a crucial component of our continuous improvement process. It enables us to identify and rectify service shortcomings, enhance customer satisfaction, and ultimately deliver a higher quality service tailored to consumer needs.

In our view, consumers would benefit from having ready access to specific information like EFTs in a way that suits their interactions with their provider, such as through their customer profile on an app or the provider's website.

A principle-based approach, allowing RSPs the flexibility to determine the most effective method of displaying EFTs and other critical information post-sale can enable the desired outcome of enhancing information availability.

### **Changes to critical details, such as the bill, should be done as part of the billing RSQ workstream**

We have reservations about the inclusion in early termination fees (EFT) into the customer' bill. As noted in the Commission's Billing Clarity Research published in June 2023, once the bill is paid, consumers will file the bill away and not re-look at old, paid bills for any reason other than possibly a tax-related claim. In general, we do not favour communicating through a bill, as it is a low impact means of communication with many customers choosing direct debit as a means of paying their telco bills.

In our view, the Price & Cost Guidelines' purpose lends itself to focus on the sales and post-sales process, as opposed to billing disclosure practices. Thus, it would be more efficient to consolidate any updates or reviews of billing information in the Billing workstream. This is particularly prudent as the Commission's is expected to address billing under the Retail Service Quality workstream in late 2024.

Adopting a 'do it once, do it right' approach ensures that changes to customer billing are made thoughtfully and effectively, avoiding piecemeal adjustments. To undertake billing changes any other way, particularly under the tight



timeframes proposed within these Guidelines, has the potential to drastically erode customer trust and damage industry reputation.

### **Additional comments**

#### *Implementation timeframe to be extended*

Based on our experience with implementing the 2021 *Marketing of alternative services to consumers during copper and PSTN Guidelines* and the 2023 *Product Disclosure – Retail Service Bundling Guidelines (Energy and Telecommunications Bundles) Guidelines* we encourage the Commission to consider at least 12 months, as opposed to 3, for RSPs to meet the expectations set out in these Guidelines. In our view:

1. drafting a revised standardised offer summary (SOS) for broadband will take some time as the TCF is a member-forum. This process entails aligning schedules; securing approvals from individual company governance structures; and ensuring the technical feasibility of proposals; and
  - a. RSPs who provide bundled services will need to ensure the SOS also align with the Bundling Guidelines as well, which will add another layer of complexity;
2. changes will need to be made across a variety of customer touch points, from website; marketing; sales scripting; as well as front-line staff training and development; all which will require rigorous testing to ensure the best outcomes and experience for our people and our customers; and most importantly;
3. resourcing, particularly at the policy and technical level, is a finite resource. There is an overlap which will require delicate balancing between the broadband SOS and the mobile SOS, the upcoming Mobile Coverage map Guidelines particularly for smaller RSPs.

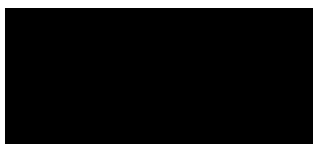
By allowing sufficient time for all RSPs, big and small - including those within and outside the TCF - to fully understand and implement these complex guidelines, the industry can work towards ensuring that the information provided to consumers is ultimately clear, concise, standardised, and well-developed. This not only helps avoid consumer confusion and dissatisfaction but also supports the overarching goal of enhancing customer experience and service quality across the board.

#### *Ex-post review*

As we note in the draft Mobile Coverage Guidelines submission, markets and technologies evolve, and regulators must be adaptable to remain effective. We have supported Commission in undertaking post-implementation reviews to ensure guidelines remain relevant and effective. However, the Commission must ensure they have allocated sufficient time for the full effects of the guidelines to manifest and be assessed so as not to overburden stakeholders with a regulatory environment that might be characterised by too much change. Ultimately, a well-considered review cycle will support the creation of a stable, transparent, and effective framework that benefits consumers and industry alike. We look forward to continued engagement in matters relating to these Guidelines.

If you have any questions about this submission, please do not hesitate to contact me,

Yours sincerely,  
Claudia Vianello



**Regulatory Strategist**

