

11 June 2021

[REDACTED]

By email only: [REDACTED]

Dear [REDACTED]

### **Official Information Act #20.201 - Broadband Complaints**

1. We refer to your request received on 5 May 2021 for the following information:
  - 1.1 the number of complaints received by the Commerce Commission (**Commission**) during the past 12 months related to misleading marketing of broadband alternatives to fibre (fixed wireless, hybrid technologies or any other broadband technologies);
  - 1.2 details of the complaints;
  - 1.3 the number of complaints broken down by technology; and
  - 1.4 the number of complaints broken down by company complained about.
2. We have treated this as a request for information under the Official Information Act 1982 (**OIA**).

### **The Commission's complaints screening process**

3. To provide context to the information released to you, we have outlined the Commission's complaint screening process below.
4. When a consumer contacts the Commission with a complaint about a trader, this is logged in the Commission's complaint database.
5. The Commission receives thousands of complaints every year. Each complaint is initially assessed by the Screening and Enquiries Team on the basis of the information available at the time. When conducting this initial assessment, the Screening and Enquiries Team considers:

- 5.1 the likelihood of a breach of the relevant legislation (the Fair Trading Act 1986, Credit Contracts and Consumer Finance 2003, and the Commerce Act 1986);
  - 5.2 the Commission's Enforcement Response Guidelines,<sup>1</sup> and;
  - 5.3 the Commission's strategic priorities and resourcing constraints.
6. The Commission has the power to act on complaints but is not required to take action in relation to all possible breaches of the legislation that we enforce.
  7. If a report is appropriate for further consideration, it is reviewed by a panel of managers and subject matter experts from within the Competition, Fair Trading and Credit Branches. The panel decides which reports are to be prioritised for further assessment by the Branch.
  8. This process enables us to identify reports that best reflect our current enforcement priorities.<sup>2</sup> The outcomes of the process are not final and we may revisit any report at a later stage, should we wish to reconsider the issues it presents.

#### **Our response**

9. We have decided to grant your request.
10. We note that it is important to read the complaints information in the following context:
  - 10.1 Complaints data on its own cannot paint a complete picture of compliance with the law. The fact that a complaint has been received does not necessarily mean that a trader has done anything wrong or any harm has been caused to any consumer or competitor. Some complaints will not be investigated by the Commission because they are unfounded or outside our jurisdiction, and some complaints that are investigated will not proceed to further action.
  - 10.2 The complaints data only reflects what consumers have chosen to report to the Commission or to other organisations that have in turn provided information to the Commission. Some complaints on the same matter are likely to have reached other complaint bodies instead of the Commission.
  - 10.3 Larger traders are likely to generate more complaints as a function of their scale; we have not adjusted for this.

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<sup>1</sup> Available at: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-response-guidelines/>

<sup>2</sup> For further information, see: <http://www.comcom.govt.nz/the-commission/commission-policies/enforcement-criteria/>

- 10.4 Complaint volumes for a trader can be about a single matter or multiple matters. Some matters that attract a high level of publicity can generate a large volume of complaints

*Question [1.1]*

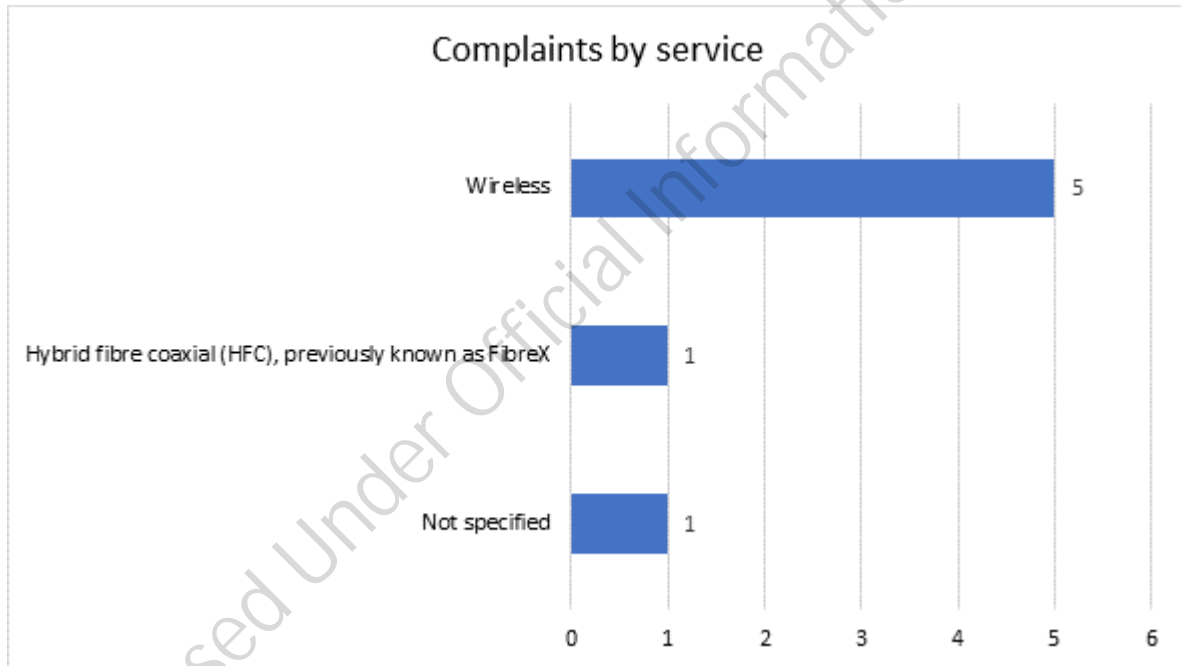
11. The Commission has received **seven** complaints related to the marketing of broadband alternatives to fibre (fixed wireless, hybrid technologies or any other broadband technologies) during the period from 1 March 2020 to 28 February 2021.<sup>3</sup>

*Question [1.2]*

12. We have decided to provide summaries of the complaints, under section 16(1)(e) of the OIA. The summaries are contained at **Attachment A**.

*Question [1.3]*

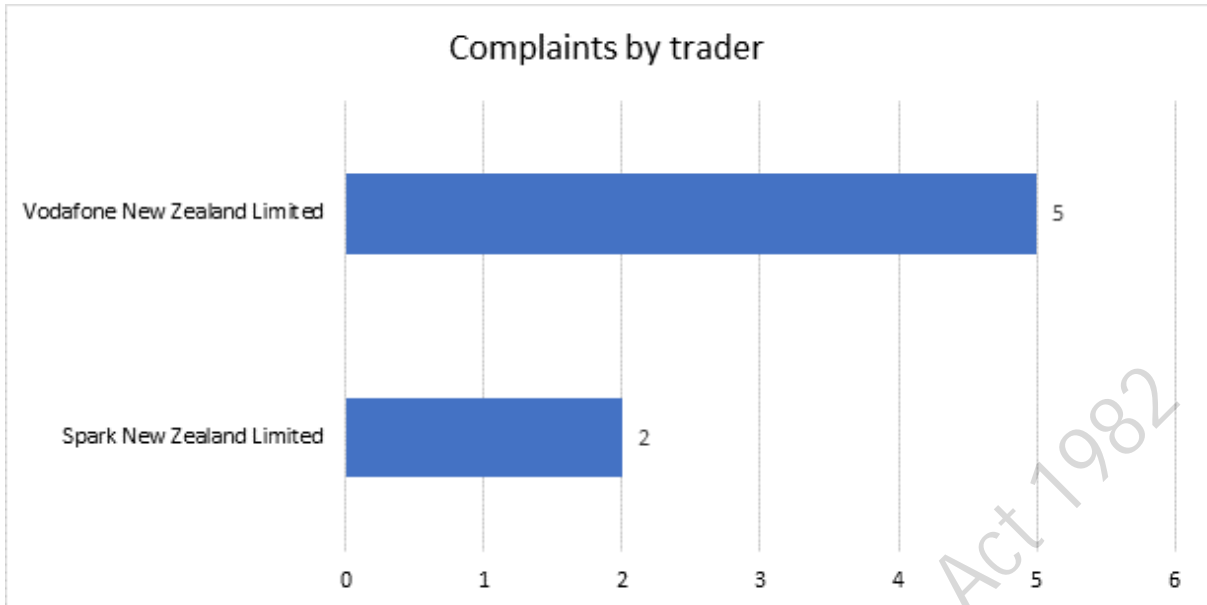
13. We have provided a graph below which shows of the number of complaints broken down by technology:



*Question [1.4]*

14. We have provided another graph below which shows the number of complaints broken down by the company complained about:

<sup>3</sup> We note that this date range is different from 'the last 12 months' (as requested). Searching by this date range allows the Commission to capture complaints which have been assessed as per the screening process outlined at paragraphs [3] to [8].



15. Please note the Commission will be publishing this response to your request in the OIA register on our website.<sup>4</sup> Your personal details will be removed from the published response.
16. Please do not hesitate to contact us at [uia@comcom.govt.nz](mailto:uia@comcom.govt.nz) if you have any questions about this request.

Yours sincerely

*Mary Sheppard*  
OIA Coordinator

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<sup>4</sup> <https://comcom.govt.nz/about-us/requesting-official-information/oia-register>

Attachment A – Complaint Details	
Details	Summary
<p><b>Number:</b> ENQ0549884</p> <p><b>Date:</b> 19 January 2021</p> <p><b>Subject(s):</b> VODAFONE NEW ZEALAND LIMITED</p>	<p>Complainant (C) alleges that they received a letter from Trader (T) advising their modem was out of date and would be replaced free of charge by T. C alleges that it was not until they spoke to the technician that they realised T was transferring them from the copper network. C alleges that T did not make it clear that they were being transferred from the copper network and instead the change was represented as a replacement of an outdated modem. C also alleges that T's sales representative made no mention of the transfer to copper when they called C to offer a saving with no change to the service.</p>
<p><b>Number:</b> ENQ0547031</p> <p><b>Date:</b> 23 October 2020</p> <p><b>Subject(s):</b> VODAFONE NEW ZEALAND LIMITED</p>	<p>C states that without their permission, T has begun to move their broadband service from VDSL to Wireless service. C states the new service is not as good quality.</p>
<p><b>Number:</b> ENQ0536407</p> <p><b>Date:</b> 2 March 2020</p> <p><b>Subject(s):</b> SPARK NEW ZEALAND TRADING LIMITED</p>	<p>C alleges that T transferred them from the copper network to wireless network after being misled into thinking that the copper network was being switched off. C managed to stop the switch but is concerned that T is misleading other customers into changing to wireless.</p>
<p><b>Number:</b> ENQ0545527</p> <p><b>Date:</b> 21 September 2020</p> <p><b>Subject(s):</b> VODAFONE NEW ZEALAND LIMITED</p>	<p>C states that T advised that they were being transferred to wireless broadband as T is no longer maintaining the copper network. C alleges that T's reason is false and that copper will still be maintained.</p>
<p><b>Number:</b> ENQ0543269</p> <p><b>Date:</b> 4 August 2020</p> <p><b>Subject(s):</b> VODAFONE NEW ZEALAND LIMITED</p>	<p>C states that they renewed their ADSL fixed term contract with T and were notified shortly after that they would be transferred to 4G wireless. C states that they contacted T numerous times to advise that they did not want to be moved to wireless. C alleges that T said the change to wireless was a nationwide change and strongly implied that C had no choice but to change.</p>
<p><b>Number:</b> ENQ0540419</p> <p><b>Date:</b> 17 May 2020</p> <p><b>Subject(s):</b> VODAFONE NEW ZEALAND LIMITED</p>	<p>C alleges that T's hybrid fibre coaxial (HFC) service, previously known as FibreX, does not reflect T's original claims about the service. C believes they are being charged for an average service.</p>
<p><b>Number:</b> ENQ0539269</p> <p><b>Date:</b> 7 May 2020</p> <p><b>Subject(s):</b> SPARK NEW ZEALAND TRADING LIMITED</p>	<p>C states that T has different deals available for urban and rural customers despite using the same network. C was told by T that the technology for 4G is not available in this region, but C states that they have had 4G internet previously.</p>

Released Under Official Information Act 1982