

11 May 2020

By email only: [REDACTED]

Dear [REDACTED]

Official Information Act #19.152 - Spark Sport

1. We refer to your request received on 19 March 2020 for a copy of the educational points raised and discussed with Spark New Zealand Trading Limited (Spark) in relation to your complaint, ENQ0531508.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).
3. On 9 April 2020, the Commerce Commission (Commission) extended the time limit to decide your request to 28 May 2020.

Our response

4. We have decided to grant your request.
5. We have **attached** a copy of the Commission's letter to Spark dated 20 February 2020 in relation to your complaint.
6. We have redacted some contact details from the letter under section 9(2)(a) of the OIA, to protect the privacy of natural persons.
7. The Commission and Spark had a telephone call on the same date to discuss the points raised in the letter. We have withheld the note of this call under section 9(2)(ba)(i) of the OIA, to prevent prejudice to the supply of similar information or information from the same source, where it is in the public interest that such information should continue to be supplied to the Commission.
8. The call was attended by a Senior Investigator and Enquiries Officer from the Commission and General Counsel, Legal Business Partner, Lead Digital Trust Partner and Tribe Lead from Spark, and discussed the points raised in the letter.

9. We consider that good reason exists for withholding information and this is not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).
10. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
11. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
12. Please do not hesitate to contact us at uia@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

20 February 2020

██████████
Legal Business Partner
Spark New Zealand Trading Limited

By email only: ██████████@spark.co.nz

Dear ██████████

Fair Trading Act 1986: Spark Sport

1. As discussed, the Commerce Commission (**Commission**) has received complaints about Spark New Zealand Trading Limited's (**Spark's**) Spark Sport Rugby World Cup 2019 Tournament Pass.
2. We have done a preliminary assessment of these complaints and we do not intend to further investigate at this time. However, we are writing to you to bring the complaints to your attention and to highlight areas for potential improvement.

The complaints

3. We received 90 complaints alleging that consumers:
 - 3.1 experienced streaming issues such as double audio feeds, blurry or pixelated images, and the stream cutting out;
 - 3.2 were not told what internet speeds were required before they purchased the Tournament Pass;
 - 3.3 expected to be able to watch the Rugby World Cup in high definition but were not able to; and/or
 - 3.4 had upgraded their television and purchased additional technology such as Chromecasts in preparation for streaming but later experienced issues with the service.
4. Overall, the consumers who contacted the Commission appear to have been disappointed with the quality of the service they received.

Spark's comments

5. In response to our questions Spark advised that:

“Four out of five Rugby World Cup customers did not contact Spark Sport’s help channels at all during the tournament. Of those that did require assistance, Spark helped a significant number of customers in the early stages of the tournament. Most of these customer queries were simple set up and account issues which were dealt with in a single interaction. [...] less than 1% of customers had complex issues which required more than four help interactions.”

Our view

6. We appreciate that providing a highly-demanded service streaming live sports coverage is likely to have been technically challenging.
7. However, we consider that the information provided by Spark to consumers before they signed up for Spark Sport, including the FAQ’s, may not have made it clear to consumers:
- 7.1 what internet speeds were required to obtain optimal service;
 - 7.2 the importance of a good in-home set up (equipment requirements, router location, etc); and
 - 7.3 what a good in-home set up looks like.
8. We note that consumers rely on point of sale information provided in relation to services when deciding whether to purchase the service. This information takes on an increased importance when a service:
- 8.1 is something they are unfamiliar with; or
 - 8.2 has specific requirements in order for it to be received as advertised.

Our role

9. The Commission is responsible for enforcing and promoting compliance with a number of laws that promote competition in New Zealand, including the Fair Trading Act 1986 (Act). The Act prohibits false and misleading behaviour by businesses in the promotion and sale of goods and services.

Penalties for breaching the Fair Trading Act

10. Only the courts can decide if there has actually been a breach of the Act. The court can impose severe penalties where it finds the law has been broken.
11. A company that breaches the Act can be fined up to \$600,000 and an individual up to \$200,000 per offence. Where a company is a repeat offender, directors and those

involved in the management of the company can be banned from involvement in the management of any company for a period of up to 10 years.

Further information

12. Our decision to take no further action on this complaint does not prevent any other person from doing so.
13. We recommend you seek legal advice on complying with the law and encourage you to regularly review your compliance procedures and policies.
14. Please contact me on 04 [REDACTED] or by email at melissa.cannell@comcom.govt.nz if you have any questions in relation to this letter.

Yours sincerely,



Melissa Cannell
Enquiry Officer
Competition and Consumer Branch