



New Zealand Telecommunications Forum

CODE COMPLIANCE FRAMEWORK (CCF)

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DOCUMENT HISTORY

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FOREWORD

1. BEFORE THE CODE COMPLIANCE FRAMEWORK (CCF) WAS INTRODUCED

- 1.1. Before the introduction of the new Code Compliance Framework, TCF Codes had a standard monitoring and enforcement component but the process was seldom, if ever, utilised. The previous regime did not allow for compliance issues to be dealt with between Code Signatories or with support from the TCF, and the regime required the engagement of external third parties at not insignificant cost.
- 1.2. TCF members could be a signatory to a Code, not comply with any of its requirements and not suffer any real consequences. Conversely, TCF members had no way of knowing whether other members comply with the Codes as there was no proactive reporting requirement.
- 1.3. Further, a Code Signatory could simply withdraw from a Self-Regulated Code if it did not comply with its requirements, even though that Code may have been considered essential and important by industry (for instance the Emergency Services Code or the Customer Complaints Code). This tended to undermine the purpose of having these Codes in the first place and the credibility and effectiveness of the TCF and its work.
- 1.4. There were some exceptions where the regime appeared to be working effectively, as was the case with the Customer Complaints Code and Local & Mobile Number Portability; and this was taken into account when deciding the extent to which these Codes require alignment with the CCF.
- 1.5. The decision to establish a CCF recognised a changing and fragmenting market, and the need for a more structured and proactive approach in ensuring all operators subscribe to a minimum set of standards to protect consumers.

2. THE CODE COMPLIANCE FRAMEWORK

- 2.1. The TCF actively pursued a broad restructure of itself that aimed to better align industry participants to help move the industry forward, improve the credibility of the TCF and improve its effectiveness.
- 2.2. This CCF is an important component of the broader TCF reform, will be an important part of the TCF membership, and is designed to:
 - 2.2.1 Ensure consistency of compliance requirements and enforcement mechanisms across all TCF codes; and
 - 2.2.2 Improve the credibility of TCF members' commitments, and thereby increase the credibility of self-regulatory solutions.
- 2.3. There remains an expectation from both the Ministry of Economic Development and the Commerce Commission that the industry will deliver on implementing the CCF. A self-regulated compliance regime is clearly preferable from an industry perspective to one that is imposed on the industry. It is therefore important that these government expectations are taken seriously. The TCF must be seen as an effective self-regulatory body to reduce government intervention. The establishment and ongoing management of the CCF is a key factor in this.

3. Member Benefits of the CCF

- 3.1. **Avoid Government regulation** – If the TCF had not taken this initiative, the Government may enforce a regulated compliance regime upon the industry. This was likely to be more complex and costly than the self-regulated CCF.
- 3.2. **Brand reputation** - Recognition in the market by consumers as a ‘reputable’ company. TCF Members compliance (or non-compliance with) TCF Codes will be published on the TCF website.
- 3.3. **Business Process Improvement** – The self certification process drives members to look at their business process and potentially make changes that lead to efficiencies.
- 3.4. **Organisational support** – The CCF provides TCF members with a single point of contact (Compliance Officer) whose role is to support and educate members on complying with TCF Codes.

A. PURPOSE

4. The purpose of the Code Compliance Framework (CCF) is to:
 - 4.1. Promote compliance with TCF Codes through the establishment of rules, processes and operating procedures under which compliance with TCF Codes will be monitored and enforced;
 - 4.2. Apply Sanctions to non compliant Code Signatories;
 - 4.3. Enhance the ability of the telecommunications industry to self-regulate; and
 - 4.4. Increase consumer confidence in the provision of Telecommunications Services.

B. GENERAL PRINCIPLES

5. The TCF compliance philosophy is to encourage continuous improvement by all Code Signatories in the effective, efficient and reliable delivery of quality services and processes to end-users of Telecommunication Services; and industry members. The TCF does not pursue compliance for the sake of compliance.
6. However, the TCF does consider it important to encourage compliance because some breaches have the potential to significantly affect other participants and the operation of agreed industry processes and Telecommunication services.
7. Parties should attempt to resolve any TCF Code breaches through bilateral discussion before initiating a complaint through the CCF process.

C. SCOPE & OBJECTIVE

8. Scope

- 8.1. The CCF is the standard set of TCF code compliance requirements and forms part of an individual TCF Code when adopted into that Code.
- 8.2. The CCF applies to TCF Members that are Code Signatories to Codes which include the CCF. The CCF also applies to Non-TCF Members who are Code Signatories to Codes which include the CCF.
- 8.3. The CCF is intended to become part of all TCF Codes, both regulated and unregulated (voluntary and mandatory), where formal code compliance arrangements are considered necessary.
- 8.4. Appendix 2 lists the TCF Codes which are expected to be governed by the CCF.

9. Objective

- 9.1. The objective of the CCF is to provide a fair, credible, transparent and effective structure to:
 - 9.1.1 Enable compliance with TCF Codes to be monitored and enforced;
 - 9.1.2 Assist Code Signatories in understanding their compliance requirements;
 - 9.1.3 Ensure widespread compliance with relevant TCF Codes;
 - 9.1.4 Provide strong incentives for Code Signatories to comply; and Sanctions for non compliance;
 - 9.1.5 Facilitate actions amongst Code Signatories that are consumer enhancing and pro-competitive; and
 - 9.1.6 Validate the industry's ability to effectively self regulate and demonstrate that an 'own initiative' intervention by the government is not necessary.

10. Exclusions from Scope

- 10.1. This CCF does not apply to:
 - 10.1.1 TCF Standards or TCF Guidelines;
 - 10.1.2 Bilateral agreements or issues. For bilateral issues between Code Signatories, the dispute resolution provisions included in their bilateral agreement would apply;
 - 10.1.3 The CCF applies to the Customer Complaints Code. However, customer initiated complaints about telecommunications industry compliance with the Customer Complaints Code or any other TCF code are to be directed initially to the TDR Scheme Agent (as Scheme administrator and Customer Complaints Code enforcement agent) for the resolution of such complaints and escalation as necessary.
- 10.2. This CCF does not affect the role of:
 - 10.2.1 The Ministry of Economic Development as the government department with policy responsibility for the telecommunications sector;
 - 10.2.2 The Commerce Commission as the competition and sector regulatory authority. The Commission would continue to have its legislative enforcement role in regard to Regulated Codes; or
 - 10.2.3 Enforcement Agent(s) or other parties who have a compliance or enforcement role specified in individual TCF Codes outside of the CCF.

D. DOCUMENTS AND IMPLEMENTATION

11. Framework Overview

- 11.1. The overall Code compliance framework includes this CCF document as well the procedures and policies set out in the Operations Manual.
- 11.2. In the event of any conflict between this CCF and the Operations Manual, this CCF shall prevail.

12. Implementation

- 12.1. The CCF shall take effect from the date it is endorsed by the TCF Board.
- 12.2. As soon as practicable after this CCF is endorsed, the Board shall approve an implementation plan for the implementation of the CCF in relation to each specific TCF Code. The CCF shall not apply to any TCF Code unless and until that code has been amended in accordance with the implementation plan and those amendments endorsed, in accordance with the TCF Rules.
- 12.3. The CCF implementation plan will recognise that, in some cases, some TCF Codes will not be amended and brought within the scope of the CCF and the CCF shall not apply to those codes.

E. COMPLIANCE ROLES & RESPONSIBILITIES

13. TCF Member & Code Signatory Obligations & Rights

- 13.1. Parties who sign up to the CCF agree to:
 - 13.1.1 Assess and monitor their compliance with TCF Codes;
 - 13.1.2 Raise compliance concerns;
 - 13.1.3 Submit a Notice of Potential Breach to the Compliance Officer as soon as any breach is identified, through self-reporting;
 - 13.1.4 Work with the Compliance Officer and/or Enforcement Agent to investigate and resolve any Code breach(es) in good faith and as quickly as practicable;

- 13.1.5 Propose appropriate resolution criteria when in breach of a TCF Code; and
- 13.1.6 Report proactively on the status of breach resolution.
- 13.2. Parties have the right to rectify a breach at any stage of the process of the investigation or resolution of the complaint.

14. Role of Compliance Officer

- 14.1. The role of the Compliance Officer is to:
 - 14.1.1 Perform the administrative function of compliance monitoring and reporting;
 - 14.1.2 Manage the self certification process;
 - 14.1.3 Assist TCF Members to understand their TCF Code compliance requirements;
 - 14.1.4 Encourage and support TCF Member compliance with TCF Codes by providing support to new and potential signatories on Code obligations;
 - 14.1.5 Manage Compliance Issues through the four-stage Compliance Management process and appeals process;
 - 14.1.6 Provide annual reports to the Board on the operation of the framework, finances and performance; and
 - 14.1.7 Maintain the Operations Manual.

15. Role of the Enforcement Agent(s)

- 15.1. The role of the Enforcement Agent, when requested, is to participate in Stage Three (Evaluation and Decision) of the Compliance Management process to:
 - 15.1.1 Investigate potential breaches;
 - 15.1.2 Determine whether a breach exists;
 - 15.1.3 Identify an appropriate timetable for implementing Sanctions (if any); and
 - 15.1.4 Request independent audits as described in clause 29.4.4.

16. Role of the Independent Auditor

- 16.1. The role of the Independent Auditor is to assist with the investigation (where the Respondent fails to provide information which the Enforcement Agent believes is of sufficient detail or quality to perform its evaluation).

17. Role of the Appeal Agent

- 17.1. The role of the Appeal Agent, when requested, is to:
 - 17.1.1 Consider any Stage Three Compliance Officer and/or Enforcement Agent decisions that are appealed within the required timeframes by the Respondent;
 - 17.1.2 Perform its role in a timely manner ensuring that the process is efficient, cost effective and involves appropriate review of the facts and consultation with the relevant parties;
 - 17.1.3 Provide an estimate of the costs of the appeal prior to commencing work in consultation with the appealing party and the TCF, and work within that costing once it has been approved.

18. Role of the TCF CEO

- 18.1. The role of the TCF CEO is:
 - 18.1.1 Compliance Issue Management – If delegated by the Board, approve the use of and appointment of an Independent Auditor to investigate a Compliance Issue at the request of the Enforcement Agent; and
 - 18.1.2 Sanctions - Approve any media releases in relation to public censure notices issued as Sanctions for Confirmed Breaches by Code signatories.

19. Role of the TCF Board

- 19.1. The role of the TCF Board is to:
 - 19.1.1 Appoint the Compliance Officer, Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor(s) for the purposes of managing the CCF;
 - 19.1.2 Approve the Operational Manual;
 - 19.1.3 Maintain the CCF code category criteria as defined in Section F of this document;
 - 19.1.4 Determine which code category each TCF Code belongs to under the CCF;
 - 19.1.5 Review the Code Compliance activity report prepared by the Compliance Officer and approve its publication on the TCF website;
 - 19.1.6 Annually review the cost, usage and effectiveness of the Framework; and
 - 19.1.7 To delegate any authority or activity to the TCF CEO as it sees fit.

20. CCF Review

- 20.1. The TCF will seek interim feedback from the Compliance Officer and any other interested parties it so chooses and consider whether amendments are required to the CCF no later than one year from the date the CCF is first endorsed by the TCF.
- 20.2. The TCF will commence a full review of the CCF not later than two years after the CCF is first endorsed by the TCF.
- 20.3. The TCF Board may commence a review of the funding model and cost allocation at any time and may suspend operation of this CCF while such a review and any subsequent amendment is carried out.
- 20.4. Any suggested amendments to the CCF as a result of any review will be published for consultation. Following consultation and approval by the relevant working party, suggested amendments to the CCF, include any amendments revised as a result of consultation, will be submitted to the TCF Board for approval.
- 20.5. This CCF will be amended in accordance with the TCF's Rules and Operating Procedures Manual.

F. CODE CATEGORIES

21. The TCF Board is responsible for determining which category each TCF code belongs to.
22. There are three types of Codes within the TCF - Regulated Codes, Mandatory Codes and Voluntary Codes.

TCF Code Category	Definition
Regulated Code	A Regulated Code is any Code of practice regulated under the Telecommunications Act 2001 as determined by the Minister or the Commerce Commission from time to time.
Mandatory Code	A Mandatory Code is a Self-Regulated Code that the TCF Board decides is compulsory for all TCF Members to become signatories to, as part of their TCF membership.
Voluntary Code	A Voluntary Code is a Self-Regulated Code which TCF Members and other Parties may choose to sign up to.

G. FUNDING MODEL AND COST ALLOCATION

- 22.1. Administration, Monitoring & Reporting
 - 22.1.1 The administration and overhead costs of managing the CCF by the Compliance Officer will be funded by the TCF.
- 22.2. Compliance Officer Funding
 - 22.2.1 The CCF Compliance Officer activities for Stages One, Two and Four will be funded by the TCF.
 - 22.2.2 The CCF Compliance Offer activities for Stage Three will be funded by the Respondent if the Respondent is found in breach. If the Respondent is found not to be in breach then the CCF Compliance Officer activities will be funded by the TCF.
- 22.3. Enforcement Agent Funding
 - 22.3.1 The Enforcement Agent activities will be funded by the Respondent if the Respondent is found in breach. If the Respondent is found not to be in breach then the Enforcement Agent activities will be funded by the TCF.
- 22.4. Independent Audit
 - 22.4.1 Any independent audit requested by the Enforcement Agent will be funded by the Respondent if the Respondent is found in breach. If the Respondent is found not to be in breach then the Independent Audit will be funded by the TCF.
- 22.5. Appeals
 - 22.5.1 Any Appeal will be funded in advance by the Respondent. Appeal costs will be refunded to the Respondent if they are found not in breach by the Appeal and the Appeal Agent's costs will be funded by the TCF in that instance. The TCF shall contemporaneously refund to the Respondent any costs paid by them pursuant to clauses 22.2.2 or 22.3.1.
 - 22.5.2 The cost of the Appeal will be agreed in advance with the Respondent before the Appeal commences.
- 22.6. Costs for Stage Three (Evaluation and Decision) will be capped for the Respondent at a ceiling as shown in Appendix 4. For the avoidance of doubt, the TCF will pay any shortfall between the cap and the actual cost of the investigation.

H. SELF CERTIFICATION, MONITORING & REPORTING

23. Preliminary Matters

- 23.1. The CCF self certification, monitoring and reporting procedures are designed to assist with assessing Code Signatories overall level of compliance with TCF Codes.
- 23.2. The CCF self certification, monitoring and reporting requirements are in addition to any specific monitoring and reporting provisions identified in individual TCF Codes.
- 23.3. The TCF is not responsible for any self certification, monitoring and reporting costs incurred by a Party.
- 23.4. The TCF will endeavour to accurately and fairly report on TCF Code compliance and Compliance Issues however, accepts no liability whatsoever for any inaccurate information being reported.
- 23.5. The TCF is not responsible for evaluating the adequacy of any end-products or services.

24. Self Certification

- 24.1. *Initial Self-Certification:* A Party must initially self-certify that it is compliant with:
 - 24.1.1 Each TCF code the Party is a signatory to, within three months of the date the code is brought under this CCF.
 - 24.1.2 Any TCF code the Party becomes a *new* Code Signatory within three months of the date it becomes a Code Signatory.
- 24.2. *Annual Self-Certification:* a Party must annually self-certify its compliance with each TCF Code for which it has been a Code Signatory to, stipulating that it is compliant as at the date it provides the self certification and that it will be compliant (to the best of its knowledge and belief) for the following 12 months. Self certification must be provided to the Compliance Officer within 20 business days of the year ending 31 March in each and every subsequent year following its initial self-certification.
- 24.3. Self certification must be completed by a duly authorised officer of the company, who has sufficient delegation to execute the self certification form. Further requirements for self-certification are detailed in Section D of the Operations Manual.
- 24.4. If a party is unable to complete a Self Certification by the due date, it must submit in writing to the Compliance Officer the following information:
 - 24.4.1 The name of the Code(s) to which failure to self-certify in the timeframe applies;
 - 24.4.2 The reason(s) for being unable to provide the information; and
 - 24.4.3 What action the party is taking to remedy the situation and expected date that self-certification will be completed by.

This information must be provided to the Compliance Officer within 20 business days of the year ending 31st March. For the avoidance of doubt, the provision of this information shall still be treated as a failure to self certify for the purposes of this Code.

- 24.5. A failure to provide a self certification shall result in the Compliance Officer opening an investigation as if they had received a Notice of Potential Breach.

25. Compliance Reporting

- 25.1. The Compliance Officer will publish on a publicly accessible part of the TCF website any failure by a party to self-certify within the required timeframe and a quarterly report summarizing activity under the CCF.
- 25.2. The Compliance Officer will publish on a publicly accessible part of the TCF website any Confirmed Breach and will note that the relevant party has agreed to resolve the breach by the Expected Breach Resolve Date.

- 25.3. Details on the timeframes and information that will be published is provided in Section E of the Operations Manual.
- 25.4. A failure by a Party to complete a self certification will result in the Compliance Officer opening an investigation.

26. Compliance Monitoring

- 26.1. Under specific circumstances, the Compliance Officer may request additional information from a Party in relation to their code compliance. Refer to Section D of the Operations Manual for full details.

I. COMPLIANCE ISSUE MANAGEMENT

27. General Principles

- 27.1. Where a breach has been raised by multiple parties for the same issue with the same Code Signatory, it will be treated as a single breach.
- 27.2. Timeframes for completion of the Compliance Management process including resolution of any Compliance Issue will depend on, and should be proportionate to, the case at hand. In any event all Parties will endeavour to expedite the investigation and remedial process, particularly where the issue adversely impacts on other Parties.
- 27.3. Notices of Potential Breach shall be accepted by the CCF Compliance Officer from the TDR Scheme Agent about any TCF code or codes, whether the scope of the issue concerns an individual customer case or multiple customer cases (which could suggest a systemic issue). The ability of the TDR Scheme Agent to refer Code non-compliance issues to the CCF Compliance Officer is to be governed by the respective powers and authority agreed with the TDR Scheme Agent by the TDR Council.
- 27.4. The Complainant (and the Commerce Commission in the case of Regulated Codes) will be updated at appropriate points during the Compliance Management process on the status of the Compliance Issue.

28. Who can raise a potential breach

- 28.1. The following Parties can highlight a potential breach of a TCF Code by a Code Signatory:
 - 28.1.1 A Code Signatory through self-reporting;
 - 28.1.2 A Code Signatory in regard to another Code Signatory for the Code;
 - 28.1.3 A third party entity who would be identified in a TCF Code as relevant to the obligations specified under that TCF Code e.g. an Emergency Services Organisation under the TCF Code for Emergency Voice Calling Services;
 - 28.1.4 The Compliance Officer as a result of observed non-compliance arising from a routine verification or issue raised via compliance monitoring; or
 - 28.1.5 The TDR Scheme Agent (in its roles as TDR service/scheme administrator or enforcement agent for the Customer Complaints Code).
- 28.2. All Notices of Potential Breach must be made in writing in the format prescribed in Section I of the Operations Manual.
- 28.3. A Complainant can withdraw their Notice of Potential Breach at any time.

29. Process Overview

- 29.1. The Compliance Management Process follows a four stage process, summarised below.
- 29.2. **Stage One (Register)**
 - 29.2.1 Notice of Potential Breach submitted by a Complainant.
 - 29.2.2 The Complainant and the Respondent will be invited to discuss the issue on a bilateral basis to ascertain if the alleged breach can be addressed outside the

Compliance Issue Management process.

29.2.3 Compliance Officer establishes whether the Notice of Potential Breach will proceed to Stage Two or will be rejected as invalid.

29.3. Stage Two (Notify and Acknowledge)

29.3.1 Compliance Officer sends a Compliance Issue Notice to the Respondent.

29.3.2 The Compliance Officer decides whether Stage Three will be performed by the Compliance Officer (default option) or the Enforcement Agent (for issues relating to Regulated Codes and Complex issues only).

29.3.3 The Commission is notified if the Compliance Issue relates to a Regulated Code.

29.3.4 Compliance Issue is progressed to Stage Three.

29.4. Stage Three (Evaluation and Decision):

29.4.1 Respondent investigates the Compliance Issue and submits a Proposed Resolution to the Compliance Officer within a specified timeframe.

29.4.2 The party who evaluates the Proposed Resolution depends on the category of TCF Code:

a) *Regulated Code*: Compliance Issues related to a Regulated Code will be evaluated by the Enforcement Agent unless the parties agree that the alleged breach is sufficiently simple and/or straightforward as to warrant use of the Compliance Officer.

b) *Mandatory or Voluntary Code*: Compliance Issues related to Self-Regulated Codes will usually be evaluated by the Compliance Agent. If the issue is deemed Complex by the Compliance Officer, the Compliance Officer can request the Enforcement Agent to perform the evaluation.

29.4.3 Compliance Officer (or Enforcement Agent if used) evaluates the issue and determines if there has been a breach. During the evaluation, the Compliance Officer may conclude the issue is Complex and refer the matter to the Enforcement Agent to evaluate.

29.4.4 As part of the evaluation process for Complex Compliance Issues, the Enforcement Agent may choose to recommend an Independent Auditor to assist with the investigation:

a) An independent audit will only be used where the Respondent fails to provide information which the Enforcement Agents believes is of sufficient detail or quality to perform its evaluation.

b) The Enforcement Agent may initiate an independent audit in relation to an alleged Code breach irrespective of whether the relevant Code provides mechanism for an independent audit to occur.

c) Use of an independent auditor must be agreed by the Respondent and in consultation with the TCF before it can proceed.

29.4.5 If a breach is found the Compliance Officer (or Enforcement Agent if used) will confirm the resolution required and Sanctions that may be applied.

29.4.6 The Compliance Officer (or Enforcement Agent if used) may agree, on the facts of a particular breach, to exempt a party from further sanction for breach of a Code for a reasonable period of time on the basis that non compliance with a given aspect of a Code is not currently reasonable (such as, a major system upgrade already scheduled in the future) or, due to such other valid business reason which requires a delay in future compliance. The relevant party cannot be the subject of a Notice of Potential Breach for the compliance issue covered by the exemption during the period of the exemption.

29.5. Stage Four (Resolution and Sanctions):

- 29.5.1 If a breach has been found, the Compliance Officer will send the Respondent a Notice of Confirmed Breach. This will include acceptance of or amendments to the Proposed Resolution provided by the Respondent, confirm the timeframe within which the Compliance Issue must be resolved (the 'Expected Breach Resolved Date') and summarise the Sanctions that may be applied according to the list of Sanctions and escalation points identified in Appendix 3.
- 29.5.2 The Compliance Officer will apply any immediate Sanctions and will monitor the progress of the resolution against the timetable. Sanctions will be added or removed depending on progress against the timetable.

30. Sanctions

- 30.1. A graduated approach to Sanctions is provided according to the impact, Code category and/or failure by the Respondent to implement remedial action(s) in the required timeframe.
- 30.2. No financial penalties apply.
- 30.3. The minimum Sanction that will be applied is publication of the Confirmed Breach with the Expected Breach Resolve Date, on the TCF website. This will apply immediately whenever there is a Confirmed Breach
- 30.4. Refer to Appendix 3 for the list of Sanctions applicable under the CCF.

31. Appeals

- 31.1. The Respondent can appeal the decision made by the Compliance Officer (or the Enforcement Agent) documented in the Notice of Confirmed Breach, provided they do so within five business days of receipt of the notice.
- 31.2. The Appeal will only review existing papers and responses and will not involve any new investigations. Further information is provided in the Operations Manual.
- 31.3. If the decision in the Notice of Confirmed Breach is appealed by the Respondent, the Sanction will still be applied and a notice published on the TCF website advising that the Notice of Confirmed Breach is under appeal.
- 31.4. The case will be closed when the Compliance Issue has been resolved by the Respondent.
- 31.5. Costs of any appeal will be paid in accordance with clause 22.5.

APPENDICES

APPENDIX 1: DEFINED TERMS

In this Code, unless the context otherwise requires:

Appeal Agent	Means an independent expert appointed by the TCF who is not a member of the TCF or the Enforcement Agent; who will manage the appeal process set out in the Operations Manual <i>Procedure for Appeal of a Notice of Confirmed Breach</i> . The Appeal Agent will be appointed on a case by case basis.
Business Day	Means a day on which registered banks are open for normal banking business, excluding Saturdays, Sundays and nation-wide public holidays. Regional public holidays are considered to be Business Days.
Code Compliance Framework or CCF	Means this document.
Clause	Refers to a clause in this document.
Code/s	Means any TCF Code that is governed by this Code Compliance Framework – as documented in Appendix 2.
Code Signatory/ies	Means a person who agrees to comply with a nominated TCF code or codes and to be legally bound by the code requirements which includes compliance with the Framework.
Commission	Means the New Zealand Commerce Commission.
Complainant	Party that submits a Notice of Potential Breach to the TCF alleging that a Code Signatory is in breach of that Code's requirements.
Compliance Issue	Means a Potential Breach or Confirmed Breach by a Code Signatory, registered with the TCF that is being managed through the Compliance Management Process.
Compliance Issue Notice	Means a notice issued to a Respondent by the Compliance Officer as part of a Compliance Issue investigation.
Compliance Management Process	Means the process of dealing with a Compliance Issue in accordance with Section F of the Operations Manual.
Compliance Officer	Means the person(s) nominated by the TCF whose role is to monitor and report on compliance in accordance with this Code Compliance Framework.
Confirmed Breach	Means a Party has been found to be non-compliant with a Regulatory, Mandatory or Voluntary Code (including the CCF) as a result of a determination by the Compliance Officer or Enforcement Agent (as applicable) during the Compliance Management Process.
Enforcement Agent	For Regulated Codes means a person(s) nominated by the TCF and approved by the Commerce Commission, or if the TCF fails to nominate a person, a person appointed by the Commerce Commission whose role is to monitor and enforce compliance of the obligations set out in that Regulated Code. For Mandatory and Voluntary Codes means a person(s) nominated by the TCF whose role is to perform the activities required at Stages 3 of the Compliance Management Process, when requested by the Compliance Officer.
Expected Breach Resolve Date	Means the expected date that a breach of a TCF code is expected to be resolved so that the relevant party will return to full compliance.

Mandatory Code	Means a Self-Regulated Code that the TCF Board decides is compulsory for all TCF Members to become signatories to, as part of their TCF membership.
Notice of Confirmed Breach	Means a notice sent to a Respondent by the Compliance Officer or Enforcement Agent when it has been determined that the Respondent is in breach of a TCF Code.
Notice of Potential Breach	Means a notice of potential breach with a TCF Code by a Code Signatory, submitted by a Complainant to the Compliance Officer containing the information prescribed in Operations Manual.Appendix 1.
Number Administration Deed or NAD	Means the deed (as amended from time to time) signed by various telecommunication companies for the provision of number administration services.
Operations Manual	Means the Operations Manual developed to manage and support the TCF Code Compliance Framework.
Party/Parties	Means a legal person and includes a company and any other legal entity signed up to and bound by this Code Compliance Framework. A Party may be a TCF Member or other third party organisation to whom the Code is relevant.
Person	Means a legal person and includes a company and any other legal entity.
Proposed Resolution	Means the resolution plan provided by a Respondent that details what, how and when a Compliance Issue will be resolved.
Regulated Code	Means any Code of practice or standards regulated under the Telecommunications Act 2001 as determined by the Commission or Minister from time to time.
Respondent	Means a Code Signatory that receives a Compliance Issue Notice or Notice of Confirmed Breach under the Compliance Management Process.
Sanction	Means a penalty applied to a Code Signatory for non-compliance with a TCF Code.
Scheme Agent	Means the independent body contracted by the TCF to provide the Telecommunications Dispute Resolution Scheme service.
Self-Regulated Code	Means a Code prepared by the TCF which is not a Regulated Code.
TCF Codes	Means Regulated Codes and Self Regulated Codes.
TCF Member	Means a person who has agreed in writing to be a member of the TCF.
TDR Council	Means the group of representatives of consumer and industry that oversee the operation of the TDR Scheme.
Telecommunication(s)	Has the same definition as defined by the Telecommunications Act 2001.
Telecommunications Act (the Act)	Means the Telecommunications Act 2001 as amended from time to time.
TCF	Means the New Zealand Telecommunications Forum Incorporated.
Telecommunications Dispute Resolution Scheme or TDR or TDRS	Means a Further Recourse scheme that has been established by the TCF, the processes of which are set out in the TCF's Customer Complaints Code.

Telecommunication(s) Service	Means any good, service, equipment and/or facility that enables or facilitates Telecommunication(s).
Voluntary Code	A Voluntary Code is a Self-Regulated Code which TCF Members and other Parties may choose to sign up to.

APPENDIX 2: CODES GOVERNED BY THE CCF

It is envisaged that the TCF Code Compliance Framework (CCF) would apply to the following TCF Codes. The CCF is not intended to apply to TCF Guidelines or other TCF outputs that do not have a measurable or enforceable component.

In accordance with clause 12 **Error! Reference source not found.** individual Codes will be amended to work with the CCF. This will be a gradual process. Whether the CCF applies to the Codes below will be indicated in the individual codes.

Code Category	Code Architecture					Total by Category
	Carrier to Carrier	Carrier to Customer (Customer initiated complaints to go via TDRS)	Carrier to Carrier in relation to a Customer	Carrier to 3 rd Party	Carrier to 3 rd Party in relation to a Customer	
Regulated			Regulated Customer Transfer Code Number portability LMNP & Network Terms**			2
Mandatory		Customer Complaints Code*		Code for Emergency Voice Calling Services*		2
Voluntary	Co-Siting Code	Disconnection Code International Mobile Roaming Code	Self-Regulated Customer Transfer Code	Unauthorised Use of Cellphones in Prisons Code	Mobile Content Code Mobile Messaging Services Code Premises Wiring Code	8
	1	3	3	2	3	
Total by Code Architecture						

* It is currently proposed that these two codes be defined as Mandatory Codes for TCF Members in course.

** The number portability terms are not regulated codes under schedule 2 of the Telecommunications Act 2001. These terms are appendices to the Commerce Commission's Determination for the designated multi-network services of 'local telephone number portability service' and 'cellular telephone number portability service' (Decision 705), established under section 39 of the Telecommunications Act.

APPENDIX 3: SANCTIONS

Below is a summary of the Sanctions and escalation path that apply in relation to a Confirmed Breach. Once the breach is addressed and confirmed by a new self certification certificate the Sanctions escalation ends and existing Sanctions are removed, provided that Sanctions listed under “Further requirements to self-report on compliance for the relevant TCF Code (and, if appropriate, on other TCF Codes)” shall remain for as long as dictated when the Sanction is imposed.

When considering an appropriate timeframe for a breach to be resolved the following criteria will be used:

1. Seriousness of the breach. E.g. number of Customers impacted, numbers of parties impacted, safety impact, operational impact on other parties to the Code, one off breach vs repeated/systemic breach etc.
2. If relevant, numbers of Parties in breach.
3. Length of time the breach remained unresolved.
4. Whether the alleged breaching Party voluntarily disclosed the breach.
5. Past conduct of the alleged breaching Party.

Sanction	Code Categories this sanction could apply to	Explanatory notes	Criteria for applying sanction	Timeframe for applying this sanction (if the breach is not resolved).
1 Initiate an investigation by sending a Compliance Issue Notice	Voluntary Mandatory Regulated	Any failure to provide the relevant self certification by the due date will be treated as if the Compliance Officer had received a Notice of Potential Breach and will initiate an investigation into the alleged non-compliance	<i>Criteria:</i> The automatic sanction that will apply when a self certification form is not supplied by the due date. <i>Trigger</i> The due date for the self certification expires and no self certification form is received by the Compliance Officer.	The day after the self certification was due.
2 Announcement of breach on TCF website (public and member’s only section)	Voluntary Mandatory Regulated	Any Confirmed Breach will immediately be published on the TCF website in a publically available section providing the specific details of the breach and the Expected Breach Resolve Date. This allows proactive members of the public and interested parties to check compliance with individual TCF Codes and to establish the overall compliance of individual telcos across a range of TCF Codes.	<i>Criteria:</i> The minimum sanction that will be applied by default in response to a Confirmed Breach or failure to provide the necessary annual self certification. <i>Trigger:</i> On issuing of a Notice of Confirmed	The date the confirmed breach is found.

Sanction	Code Categories this sanction could apply to	Explanatory notes	Criteria for applying sanction	Timeframe for applying this sanction (if the breach is not resolved).
			Breach to the Respondent by the Compliance Officer, or, the first business day after 31 March if the necessary annual self certification was not filed a Party.	
3 Announcement of enduring breach on TCF website (public section)	Voluntary Mandatory Regulated	Any ongoing Confirmed Breach will immediately be published in full on the TCF website in a publically available section.	<i>Criteria:</i> The minimum sanction that will be applied by default in response to a Confirmed Breach that is not resolved by the Expected Breach Resolve Date, or continued failure to provide the necessary annual self certification. <i>Trigger:</i> The expiry of the Breach Resolve Date	The day after the Expected Breach Resolve Day if the breach remains
4 Copy of notice sent to Commerce Commission	Regulated	Any notice in relation to a Regulated Code will be forwarded to the Commerce Commission.	<i>Criteria:</i> Where a Notice of Potential Breach or Confirmed Breach relates to a regulated Code. <i>Trigger:</i> On issuing of a Notice of Potential Breach or Notice of Confirmed Breach to the Respondent by the Compliance Officer.	As sanction 3 for Regulated Codes
5 Announcement of breach on TCF website (public section)	Voluntary Mandatory Regulated	Any Confirmed Breach will be published on the TCF website in a publically available section with additional information on the nature of the breach in addition to that provided in sanction 1. This allows proactive	<i>Criteria:</i> Failure by a code signatory to correct a breach which is the subject of sanction 1.	After 10 business days from sanction 3. The day after the Expected Breach

Sanction	Code Categories this sanction could apply to	Explanatory notes	Criteria for applying sanction	Timeframe for applying this sanction (if the breach is not resolved).
		members of the public and interested parties to check compliance with individual TCF Codes and to establish the overall compliance of individual telcos across a range of TCF Codes.	<i>Trigger:</i> On failure of a code signatory to correct a breach which is the subject of sanction 1.	Resolution Day if the breach remains
6 Further requirements to self-report on compliance for the relevant TCF Code (and, if appropriate, on other TCF Codes).	Voluntary Mandatory Regulated	As required by the Enforcement Agent or Compliance Officer, to provide more detailed and/or frequent reporting on compliance with the TCF Code to which the Confirmed Breach relates, than is normally required for a fixed period of time. The Compliance Officer or Enforcement Agent may also require provision of additional compliance information on other TCF Codes; for example where an issue with one code may be symptomatic of a wider issue.		40 days after the Expected Breach Resolve Day if the breach remains
7 Announcement of breach to Code Signatories and TCF Members.	Voluntary Mandatory Regulated	A proactive announcement by the TCF to Code Signatories and TCF Members about a code signatories confirmed breach.	<i>Criteria:</i> Failure by a Respondent to resolve a Compliance Issue in the timeframe agreed and documented in the Notice of Confirmed Breach <i>Trigger:</i> When a Respondent fails to resolve a Confirmed Breach in the timeframe specified according to the Impact Level of the Compliance Issue.	After 10 business days from sanction 4 10 business days after the Expected Breach Resolution Day if the breach remains
8 Announcement of breach issued via TCF media release (public censure).	Voluntary Mandatory Regulated	TCF approved Media Release issued to Media Release Subscribers, announcing the Confirmed Breach and failure to resolve.	<i>Criteria:</i> Failure by a Respondent to resolve a 'Major' impact level Compliance Issue in the timeframe agreed and documented in the Notice of Confirmed Breach.	if Respondent is 20 business days late (or more) in resolving Compliance Issue. 20 business days after the Expected Breach

Sanction	Code Categories this sanction could apply to	Explanatory notes	Criteria for applying sanction	Timeframe for applying this sanction (if the breach is not resolved).
			<p><i>Trigger:</i> When a Respondent fails to resolve a Confirmed Breach in the timeframe specified according to the Impact Level of the Compliance Issue.</p>	Resolution Day if the breach remains
<p>9 Escalation to the Commerce Commission for action.</p>	Regulated	Where the matter is serious, the processes provided for in the Code have been exhausted and the issues remains and appears insoluble the TCF CEO may escalate the issue to the Commerce Commission for investigation and action.	<p><i>Criteria:</i> Failure by a Respondent to resolve a 'Major' impact level Compliance Issue in relation to a Regulated Code in the timeframe agreed and documented in the Notice of Confirmed Breach</p> <p><i>Trigger:</i> When a Respondent fails to resolve a Confirmed Breach in the timeframe specified.</p>	<p>if Respondent is 60 business days (or more) late in resolving Compliance Issue.</p> <p>40 business days after the Expected Breach Resolution Day if the breach remains</p>

APPENDIX 4: CAPPED COSTS

Costs levied on a party found in breach are capped at a level depending on the party that performs Stage Three of the process.

Where the Enforcement Agent performs Stage Three of the process, costs are capped at:	\$1,000 (plus GST) per investigation
Where the Compliance Officer performs Stage Three of the process, costs are capped at:	\$500 (plus GST) per investigation