



New Zealand Telecommunications Forum

Code for the Marketing of Alternative Services During Copper and PSTN Transition

("Copper and PSTN Transition Code")

Code Status:	Final Approved
Code Classification:	Voluntary Code
Date:	1 April 2022
Review Status:	The TCF will review this Code no later than 12 months after the Code comes into effect.

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Executive Summary

The Code, developed by the New Zealand Telecommunications Forum (TCF) Incorporated, for Customers transitioning from Copper-Based Services to an Alternative Telecommunications Services is referred to as (“Copper and PSTN Transition Code”).

Background

The New Zealand Telecommunications industry is in a transition period whereby Customers of Copper-Based Telecommunications Services, including those delivered over the PSTN, are being transitioned to Alternative Services.

Copper and PSTN Customers need to understand the timeframes for their transition, and what service and technology options they have going forward. To help Customers understand the transition, RSPs need to provide clear information on the different options available to them to make informed decisions about what Alternative Telecommunications Service best suits their needs ahead of the transition.

There are other obligations that sit alongside this Code such as the Commerce Commission’s Copper Withdrawal Code (2020) which sets out consumer protection requirements that Chorus must meet in withdrawing certain copper services within specified fibre areas.

This TCF Code is the industry's implementation of the copper and PSTN transition sections of the Commerce Commission's Marketing Alternative Telecommunications Services Guidelines.

Anticipated benefits for Consumers:

- Customers of Copper-Based Services are able to make informed decisions when transitioning away from existing Copper-Based Services;
- Education on the benefits of alternative technologies;
- Avoid confusion regarding the process or what services are available.

Anticipated benefits for Industry

- Support Customers transitioning from Copper-Based Services at an industry level;
- Educating and providing better information to Customers will avoid market place confusion and Complaints.

About the TCF

Established in 2002, the "New Zealand Telecommunications Forum" (TCF) is a registered incorporated society.

The TCF’s objective is to actively foster cooperation among the telecommunications industry’s participants, to enable the efficient provision of regulated and non-regulated Telecommunications Services. Our goal is to promote competition for the long-term benefit of end-users of Telecommunications Services in New Zealand.

Code Revision

This is the first iteration of this Code.

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A. PURPOSE

1. The purpose of this Code is to ensure Customers transitioning off Copper-Based Services are able to make informed decisions about what Alternative Telecommunications Service is best for them and to improve the Marketing of services in this scenario.
2. To promote the purpose set out in section 233 of the Act.

B. APPLICATION

3. This Code applies to telecommunications Retail Service Providers (RSPs) that provide Copper-Based Services to their Customers during copper and PSTN transition.

C. IMPLEMENTATION

4. This Code was approved by the TCF Board on 7 April 2022.
5. This Code will take effect one month from the approval date and applies to new notices and marketing sent from this date.
6. The TCF will review this Code no later than 12 months after the Code comes into effect.

D. DEFINED TERMS

In this Code, unless the context otherwise requires:

Act	Means the Telecommunications Act 2001.
Alternative Telecommunications Service OR Alternative Service	Means any service available to a Customer moving off Copper-Based Services, using a fixed access technology other than copper, including fibre, hybrid coaxial cable, fixed wireless and satellite broadband services.
Any Change	For the purposes of this Code, when we refer to Any Change it means copper withdrawal ¹ , PSTN withdrawal or a decision by an RSP to cease supply of Copper-Based Services to a Customer's residence for any reason whatsoever. It does not include other changes such as price or terms changes to existing copper services. It also does not include Grandfathered Copper Service products by an RSP where alternative copper products with similar features and performance remain available to the Customer from the same RSP.

¹ The Commerce Commission's Copper Withdrawal Code (2020) sets out consumer protection requirements that Chorus must meet in withdrawing certain copper services

Code	Means this TCF Copper and PSTN Transition Code.
Code Compliance Framework (CCF)	Means the overarching compliance and enforcement regime for TCF Codes as set out in the TCF Code Compliance Framework.
Code Signatory	Means a Person who agrees to comply with a TCF Code and be legally bound by its requirements which includes compliance with the Code Compliance Framework.
Compliance Officer	Means the Person appointed by the TCF as the Compliance Officer under the Code Compliance Framework.
Complaint	Means the same as defined in the TCF Customer Complaints Code.
Consumer	Means an actual or potential end-user of a mass-market residential broadband service.
Copper-Based Service	Means any voice or broadband service provided over a copper access line.
Customer	Means a Person who has a billing relationship (contract) with an RSP in respect of the relevant Telecommunications Service. The Customer may also be referred to as an End User.
Grandfathered Copper Service	Means a Copper-Based Service that is no longer actively sold by an RSP but remains available for existing Customers of that service.
HFC	Means hybrid fibre coaxial.
Marketing	Means any communication relating to the description, promotion, advertising or sale of products or services to Consumers including tele-sales and customer support, online, print, television, radio, in-store and door-to-door descriptions, promotions, advertising and selling.
New Zealand Telecommunications Forum or TCF	Means the New Zealand Telecommunication Forum Incorporated Society registered in New Zealand.
Party	Means a signatory to this Code.
Person	Means a legal Person and includes a company and any other legal entity.
Personas	Means non-speed descriptions intended to help a Customer decide between different services. This may include factors such as descriptions of what applications are likely to be possible and

	types of users best suited to different services.
PSTN	Means the public switched telephone network.
RSQ	Means retail service quality.
Retail Service Provider or RSP	Means any Person providing a retail Telecommunication Service to a Customer and who has the direct billing relationship with the Customer for that service. An RSP may also be referred to as an Access Seeker or a Service Provider, both terms are defined in section 5 of the Telecommunications Act 2001.
Self-Regulated Code	As described in the TCF Rules section 20, the obligations set under this Code are either voluntary or obligatory as approved by the TCF Board and requires signatories to complete a self-certification process, which is monitored through the TCF Compliance Framework.
Telecommunication(s) Service	Means any goods, service, equipment and/or facility that enables or facilitates telecommunication(s).
Wireless Broadband Service	Means a service provided by means of fixed wireless access technology.

E. OBJECTIVES

7. This Code governs the Marketing of Alternative Telecommunications Services to Customers when they are being transitioned from Copper-Based Services.
8. The Code's high-level objective is to ensure that Consumers transitioning off Copper-Based Services can make informed decisions about what Alternative Telecommunications Service is best for them. This objective will be achieved by ensuring Customers are:
 - 8.1. made aware of the range of options available to them when being presented with offers to move to Alternative Telecommunications Services;
 - 8.2. given appropriate notice of Any Change to their Copper-Based Services and do not have to make decisions under pressure;
 - 8.3. given accurate information to purchase an Alternative Telecommunications Service; and
 - 8.4. given appropriate information and not misled about the performance characteristics of Alternative Telecommunications Services.

F. SCOPE

9. The following are included in the scope of this Code:

- 9.1. Marketing of Alternative Telecommunications Services to Customers transitioning off Copper-Based Services;
- 9.2. Complaints and disputes resolution process;
- 9.3. Compliance and enforcement mechanisms; and
- 9.4. Monitoring and reporting provisions.

G. EXCLUSIONS FROM SCOPE

10. The Code does not apply to:
 - 10.1. speed and performance characteristics of Alternative Telecommunications Services, this is covered by the TCF Broadband Marketing Code;
 - 10.2. mobile services, except where they are specifically offered as an Alternative Telecommunications Service;
 - 10.3. the operational process to move a Customer's telecommunications service from one technology to another;
 - 10.4. dial-up or business broadband services; and
 - 10.5. genuine emergency and "force majeure" circumstances where Customers may need to be urgently connected to Alternative Telecommunications Services or technologies.

H. PROVIDING NOTICE OF ANY CHANGE TO COPPER-BASED SERVICES

11. The objective of this section is to ensure that Customers of Copper-Based Services are given appropriate notice of Any Change to their Copper-Based Services and do not have to make decisions under pressure as a result of RSP conduct.
12. When providing a notice of Any Change to a Customer, RSPs must:
 - 12.1. provide the Customer with as much notice as reasonably possible in the circumstances, and not less than four months' notice, of Any Change to a Copper-Based Service provided that the RSP has received a valid, applicable notice from a Wholesale Provider issued in accordance with the Copper Withdrawal Code (2020).
 - 12.2. explain clearly to the Customer the reasons why they need to move off their Copper-Based Service and onto an Alternative Telecommunications Service.
 - 12.3. not give copper or PSTN withdrawal as the reason for moving unless the RSP can point to a formal notice to the Customer from Chorus or a formal notice to the RSP from Spark relating to copper or PSTN withdrawal at that Customer's premises.
 - 12.4. not create the impression that their decision to stop providing Copper-Based

Services as a commercial matter is related to copper or PSTN withdrawal in the absence of a relevant withdrawal notice to the affected Customers.

12.4.1 For avoidance of doubt, this clause does not prevent an RSP from referring to copper or PSTN withdrawal generally in its communications with Customers, provided that it does not refer to such withdrawal in a way that is misleading.

12.5. not communicate that the copper or PSTN withdrawal date is different to the date given on the Chorus or Spark formal withdrawal notice.

12.6. avoid creating the impression that Copper-Based Services (including re-sold PSTN services) are not available to Customers just because that RSP has decided to cease supplying them ahead of a formal withdrawal notice from Chorus or Spark.

12.7. avoid actions that risk creating a sense of pressure or obligation on Customers, or confusion for Customers, in relation to Alternative Telecommunications Services.

12.7.1 For example, sending unsolicited modems for Alternative Telecommunications Service to a Customer during the transition away from copper risks:

- a) Creating a sense of pressure or obligation to use the modem, even if the modem is provided on a “use it or throw it away” basis; and
- b) Causing confusion for Customers who may assume it is a replacement for an existing device and not realise that it relates to a different service.

12.7.2 If an RSP sends unsolicited modems, they must prominently display, such as on the modem itself, that the modem is being provided for the purpose of an unsolicited telecommunications service and the Customer has no obligation to purchase that service. Furthermore, that the Customer is likely to have the choice of other Alternative Telecommunications Services depending on their location, refer to cl.14. The RSP must also make it clear where the Customer can find the terms and conditions of the Alternative Telecommunications Services.

12.7.3 To avoid confusion, Customers must be required to take a process step that results in them engaging directly with the RSP (which may be online or by way of a Customer app) before becoming liable for any costs associated with the Alternative Telecommunications Service.

12.7.4 RSPs must also take into account the provisions of the Fair Trading Act that apply in such a situation. For example, sections 21A– 21C of the Fair Trading Act set out the rules that apply when sending unsolicited goods and services or seeking payment for them.

12.8. RSPs must not move Customers onto Alternative Telecommunications Services

without the Customer's express consent. Customers must decide for themselves what Alternative Telecommunications Service is best for them. They must not find out, after the event, that they have been moved to an Alternative Service by their RSP.

- 12.9. RSPs must respond in a timely and accurate manner to all requests for clarification or further information from Customers.

I. PROVIDING INFORMATION ABOUT ALTERNATIVE SERVICES

13. Customers must be made aware of the range of Alternative Telecommunications Services available to them as they transition off Copper-Based Services.
14. RSPs must communicate to Customers the range of Alternative Telecommunications Service options available to them from their RSP, depending on their location.
15. Customers need to be informed that they may have other options available to them, in addition to the particular service their current RSP wants to sell as they transition off Copper-Based Services:
 - 15.1. RSPs do not need to refer to other RSPs' services but they must highlight the fact that there may be other options available in the market. For example, a reminder notice might state: *"Remember, you may have other choices available to you, so make sure you look around to find out what's best for your needs."*
16. RSPs should not recommend or imply that Copper-Based Services are available from other RSPs if the RSP is aware that the Customer is in a copper stop-sell or PSTN stop-sell area or has been issued a formal copper withdrawal or PSTN withdrawal notice.
17. RSPs must encourage Customers to use independent information to see what Alternative Telecommunications Services are available at their location and to use the information available to them to decide what Alternative Telecommunications Service best meets their requirements. To assist Customers, if available, RSPs should provide information on how to access details on their broadband usage and spend profile.
18. RSPs must inform Customers of PSTN services that they are able to keep their phone number when changing RSP.

J. BROADBAND MARKETING

19. The TCF Broadband Marketing Code sets out the requirements when Marketing broadband services to Consumers, to ensure they are given clear, accurate and up-to-date information about the technical and performance characteristics of broadband Telecommunication Services available in New Zealand.

K. CUSTOMER COMPLAINTS

20. Customers must be informed about the Customer Complaints process available to them for prompt resolution of any issues under the Code, this must include:

- 20.1. RSPs must provide Customers with clear information on either how to raise a complaint or where the Customer can find the RSP's complaint process in relation to the Marketing or performance of broadband services which may arise as part of the transition from copper or shortly after.
 - 20.2. RSPs must make available information to Customers on how they can access the Telecommunications Disputes Resolution Scheme (TDRS).
 - 20.3. RSPs must inform Customers of the existence of the Code and the TCF Broadband Marketing Code and what Customers must expect from their RSP under it. This may be by providing a link to the relevant page on the TCF website.
21. Complaints related to broadband Marketing and broadband performance should be addressed under the TCF Broadband Marketing Code unless they are specifically related to information or activities under this Code.

L. DISPUTES RESOLUTION

22. A Customer may refer a Complaint under this Code to the TDRS.
23. Each Party to a dispute that is referred to the TDRS must comply with the rules of the TDR scheme.

M. CODE COMPLIANCE WITH RELATED OBLIGATIONS

24. Compliance with this Code provides a framework for all Parties to act in accordance with New Zealand legal and regulatory obligations. Industry participants, including Parties to this Code, have an obligation to comply with all applicable laws, regulations and requirements of any government or statutory body, as well as other applicable industry standards or Codes.
25. In particular, all Parties to this Code must ensure they comply with the Fair Trading Act 1986, Consumer Guarantees Act 1993 and the Privacy Act 2020.
26. In the event of any inconsistency between this Code, any relevant legislation, and any Commerce Commission determinations and Codes, this inconsistency will be resolved in the following (descending) order of precedence:
 - 26.1. Legislation;
 - 26.2. Commerce Commission Determinations and Codes;
 - 26.3. This Code.
27. RSPs must comply with the following existing obligations when Customers are transitioning from Copper-Based Services and in the Marketing of Alternative Telecommunications Services.
 - 27.1. RSPs must provide Customers with clear information on how transitioning from Copper-Based Services to Alternative Telecommunications Services could impact

the operation of their in-home equipment in accordance with the Commerce Commission 111 Contact Code.

- 27.2. RSPs must ensure vulnerable Customers are made aware of their rights, in accordance with the Commerce Commission 111 Contact Code.
- 27.3. RSPs must provide Customers with clear information about the costs or fees associated with transitioning from Copper-Based Services to Alternative Telecommunications Services, in accordance with the TCF Broadband Product Disclosure Code.

N. TCF CODE COMPLIANCE FRAMEWORK OBLIGATIONS

- 28. The TCF, through its Code Compliance Framework (CCF) has the overall responsibility of ensuring that Code Signatories abide by the obligations set out in this Code.
- 29. The TCF CCF applies to the ongoing monitoring and compliance of this Code. By becoming a Code Signatory, Parties agree to comply with and are bound by the terms of the CCF and obligations set out in this Code.
- 30. The CCF's Complaints management procedures will apply to any allegations of a breach of this Code.
- 31. Self-certification Monitoring and Reporting Requirements
 - 31.1. By signing up to this Code, Code Signatories agree to abide by the terms of the CCF and will cooperate in a full and frank manner with the Compliance Officer at all times, participate in good faith in any investigations they may be involved in and adhere to any sanctions levied against them under the CCF in relation to this Code.
 - 31.2. In accordance with the CCF, Code Signatories must file initial and annual self-certification forms with the Compliance Officer to demonstrate their initial and ongoing compliance with this Code.
 - 31.3. It is the responsibility of the Parties to this Code to be fully conversant with the latest version of this Code, and to ensure that they are compliant at all times.
 - 31.4. Each Code Signatory must keep information they deem necessary to show their compliance with this Code, should it be required.
- 32. Compliance Issue Management
 - 32.1. The TCF CCF Section I sets out the process for dealing with notice of potential breach by a Code Signatory, investigation, sanctions and appeals process.
 - 32.2. Parties who may provide notice of a potential breach of the Code to the TCF Code Compliance Officer is set out in section I clause 28 of the CCF, parties include TDR who through their Complaints process may notify the Compliance Officer of a potential Code breach by a Code Signatory.

33. Telecommunications Act 2001

- 33.1. For the avoidance of doubt, the procedures set out in the CCF are additional to, and not exclusive of, any other rights a Party may have under the Telecommunications Act 2001, at law or in equity and nothing in the CCF will prevent any Party from exercising its rights to raise a dispute directly to the Commerce Commission in accordance with Part 4A of the Telecommunications Act 2001.

O. MONITORING

34. The TCF monitors compliance of this Code under the CCF.
35. The TCF may request additional information from a Party in relation to their code compliance, including for the purposes of this Code, information regarding customer notices, complaints process, training or marketing collateral.
36. The TCF may undertake a 'mystery shopper' exercise on relevant consumer marketing material to assess compliance of a Party or investigate any breach of the Code.
37. TDR will monitor customer complaints that relate to the Code and report any issues to the TCF Compliance Officer for further investigation as appropriate.

P. EXPIRY, REVOCATION AND AMENDMENT OF THE CODE

38. The expiry, revocation or amendment of this Code will be in accordance with the New Zealand Telecommunications Forum's Operating Procedures Manual 'The Handbook'. Any TCF Member may put a Project Proposal to the Forum Board (at any time) for the amendment or revocation of the Code.
39. The Code will be reviewed no later than 12 months after the Code comes into effect, and every two years thereafter as required under the TCF CCF.