

New Zealand Telecommunications Forum (TCF)

Project Scope for

Broadband Product Disclosure

Date Submitted: 6 September 2012

Issue Identification

Consumers need to be able to compare different broadband plans to enable them to make informed decisions when choosing a broadband service (and provider). To achieve this, they need easy access to simple, consistent information on broadband services.

The Minister of Communications and Information Technology (the 'Minister'), Hon Amy Adams, has expressed concerns around a number of consumer issues relating to how broadband services are advertised, sold and managed; and the availability of comparative information about broadband services

Broadband product disclosure information would increase consumer confidence, enable easier comparison between RSPs and could ultimately help avoid regulation.

Background

The Minister said recently¹ that she wants to ensure UFB (and RBI) products are offered 'on a transparent and readily comparable basis' so that 'consumers and businesses know what they are paying for'. Her initial position is that she would like to see a scheme along the lines of the Consumer Information Standards (Used Motor Vehicles) Regulations² which require a completed Consumer Information Notice to be attached to all used motor vehicles offered or displayed for sale.

The Ministry of Business, Innovation and Employment (MBIE) has commenced a project on consumer demand which is considering whether there should be greater transparency around fixed and mobile broadband product offerings to enable consumers and businesses to make informed decisions about products. The Minister stated she would prefer industry to address the issue itself but is prepared to regulate if industry do not seize the initiative. She has instructed her officials to begin drafting regulation as a backstop.

The Commerce Commission raised similar issues in its Demand Side Study³ Issues Paper. On the subject of Network Neutrality; it noted that "encouraging or requiring ISPs to disclose to consumers in a comprehensive way the limitations or restrictions on their retail services would assist these competitive processes." This point was reiterated in the Commission's Demand Side Study final report (29 June 2012).

At the June 2012 TCF Board Meeting, the MBIE set out its expectations regarding minimum disclosure elements and common format for description of fixed broadband products to be

¹ <http://www.beehive.govt.nz/speech/address-commerce-commission-conference>

² <http://www.comcom.govt.nz/used-motor-vehicles/>

³ <http://www.comcom.govt.nz/high-speed-broadband-services-demand-side-study/>

produced by industry. The Minister hopes to see the initiation of a “code development process” by TCF to deliver these things.

The Minister would like the industry to agree and develop minimum disclosure elements and a standard format for product disclosure for fixed broadband by end March 2013; subsequently followed by the addition of mobile broadband.

Annex A – contains MBIE’s summary of the information they would like to see provided by the industry.

Project Scope

To develop a Code of Practice for Broadband Product Disclosure information (the Code) which, if adopted, would improve transparency and consistency of information to consumers, increasing their awareness of broadband products and platforms; and improving their ability to make informed choices when purchasing or switching broadband products and plans.

This Code will not set minimum service standards but instead, will provide an agreed template for how mass market broadband services are described to consumers, for example; standards for how Retail Service Providers (RSPs) communicate information about usage tools and caps to consumers.

The Code will provide a common template for the minimum disclosure of broadband product information about:

- How to describe products so as to set appropriate expectations around service performance in advertising and marketing (e.g. how broadband speeds are described); and
- Pricing disclosure including all costs such as upfront costs, monthly recurring costs and any applicable overage of a plan across the full contract period.

Other matters that will be covered are:

- How to describe and present traffic management policy principles to current and potential customers;
- How customers can track their usage against defined allowances or caps on their product including how customers are notified when they approach those limits and how to communicate what happens when the limit is reached; and
- Any other information which should be provided to the consumer in an easy to access way such as the RSP’s address, service guarantees, process for complaints, how data is measured, and early termination fees.

The Code will specify which information should be included in advertising and marketing, and what information need only be made available in an accessible location on the service provider’s website and/or at the point of sale.

The following mass market broadband products (whether sold as a bundle or on a standalone basis) are expected to be covered by this Code:

- Fixed broadband services (including copper, cable and fibre broadband); and
- Mobile and wireless broadband services.

Being cognizant of complexities with some of the information required; there may be a phased approach to implementation of some components of the Code. However; this will not hold up the

development of the Code which will be prepared based on the information available at the time and the approved Code may be subsequently amended as new information becomes available. The contents of the Code will be consistent with the obligations of RSPs under the Fair Trading Act and work alongside the Commerce Commission’s Advertising Guidelines for Broadband Providers.

As part of preparing information for the Code, the Working Party may need to agree standardised methodologies for measuring broadband speed.

In addition, the Working Party will look at how general information can be made available to consumers on:

- Factors that may affect broadband performance (e.g. home wiring, wireless router); and
- Effects of broadband on existing services (e.g. alarm monitoring services, medic alerts).

During the development of this Code, the Working Party will work closely with MBIE who are in parallel, drafting regulatory standards for the transparency of information available about communications services.

Deliverables

The deliverables from this project are:

1. A Project Scope for this working party for approval at, or before, the September 2012 Board meeting.
2. A code that provides Broadband Product Disclosure information covering both fixed and mobile broadband products.
3. A recommendation for the TCF Board on whether the Code should be voluntary, mandatory or regulated.

Exclusions from Scope

The following areas are outside the scope of this project:

1. Tailored or bespoke broadband business plans
2. Dial-up services

Proposed Project Timeline

<i>Item</i>	<i>Target Date</i>
Preparation of project scope by Working Party	August 2012
Board signoff on project scope	Mid Sept 2012
Draft Code complete	Mid March 2013
Public consultation commencement	End March 2013
Public consultation period	April 2013
Consideration of public comments period	May 2013
Revised Working Party draft code	June 2013
Submit to the Board for endorsement	July 2013

Resources

A TCF resource to act as Forum Administrator for up to 250 hours will be required for this scope of work.

Working Party Membership

<i>Name</i>	<i>Organisation</i>
Project Leader:	
Dave Simpson	Telecom
Working Party Members	
Sara Lipanovic	2degrees Mobile
Graham Walmsley	CallPlus
Scott Page	CallPlus
Tim Pegler	Chorus
John Tristram	Enable Networks
Malcolm Campbell	Enable Networks
Jamie Baddeley	FXNetworks
Aimee Scofield	Telecom
Joseph Rochford	Telecom
Mark Jenner	Telecom
Andrew Cushen	TelstraClear
Peter Ensor	Ultrafast Fibre
Danie Botha	Vector
Kelvin Binning	Vodafone
(tba)	Commerce Commission
Vikram Kumar	InternetNZ
Ernie Newman	MBIE
Paul Brislen	TUANZ

Recommendations

That the TCF Board:

1. Approve this project scope.

Annex A – MBIE’s proposed items for inclusion in the information provided

At the June 2012 TCF Board meeting, the MBIE presentation included the following details of what they would like to see covered in an industry code:

‘Standard format for fixed broadband product disclosure’

- Price – including full disclosure of all cost elements of a plan across the full contract period;
- Speed - likely average speeds in peak and off-peak times;
- An indicator which gives the consumer information on how congestion on shared resources such as national backhaul will be managed;
- Traffic management practices;
- Data caps, any consequences of exceeding them and how data usage can be monitored (preference for real time ability to monitor data usage to be prescribed in the Code);
- Use of clear, standardised terms/language;
- Clear identification of factors that may affect performance (e.g. home wiring, wireless router etc.);
- Effect on existing services e.g. monitored services (alarms, medic alerts, fax etc.)