



New Zealand Telecommunications Forum

CODE COMPLIANCE FRAMEWORK (CCF)

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A. PURPOSE

1. The purpose of the Code Compliance Framework (CCF) is to:
 - 1.1. 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;
 - 1.2. Apply Sanctions to non-compliant Code Signatories;
 - 1.3. Enhance the ability of the Telecommunications industry to self-regulate; and
 - 1.4. Increase consumer confidence in the provision of Telecommunications Services.

B. GENERAL PRINCIPLES

2. The TCF compliance framework aims to encourage continuous improvement by the Telecommunications industry in the effective, efficient and reliable delivery of quality services and processes to end-users of Telecommunication Services.
3. The TCF considers it important to encourage compliance because some breaches by Code Signatories can have the potential to significantly affect customers, other participants and the operation of agreed industry processes and Telecommunication Services.
4. Parties are encouraged to resolve any issues through bilateral discussion before initiating a complaint through the CCF process.

C. SCOPE & OBJECTIVE

5. Scope

- 5.1. The CCF is the standard set for TCF Code compliance requirements and forms part of an individual TCF Code when the Code is drafted.
- 5.2. The CCF applies to TCF Members and Non-TCF Members that are Code Signatories to TCF Codes.
- 5.3. The CCF applies to Regulated, Mandatory and Voluntary Codes.
- 5.4. The full list of the Codes which are governed by the CCF can be found on the [TCF website](#).

6. Objective

- 6.1. The objective of the CCF is to provide a fair, credible, transparent and effective structure to:
 - 6.1.1 Enable compliance with Codes to be monitored and enforced;
 - 6.1.2 Assist Code Signatories in understanding their compliance requirements;
 - 6.1.3 Ensure compliance with relevant Codes;
 - 6.1.4 Provide strong incentives for Code Signatories to comply; and Sanctions for non-compliance;
 - 6.1.5 Facilitate actions amongst Code Signatories that are consumer experience enhancing and support a competitive market; and
 - 6.1.6 Validate the industry's ability to effectively self-regulate and demonstrate that an 'own initiative' intervention by the government is not necessary, where appropriate.

7. Exclusions from Scope

- 7.1. This CCF does not apply to:
 - 7.1.1 TCF Standards or TCF Guidelines, which are a set of general recommendations that are non-binding;
 - 7.1.2 Bilateral agreements or issues. For bilateral issues between Code Signatories, the dispute resolution provisions included in their bilateral agreement would apply;

- 7.2. This CCF does not affect the role of:
 - 7.2.1 The Commerce Commission who has a legislative enforcement role regarding its own Commission Codes; and
 - 7.2.2 Enforcement Agent(s) or other parties who have a compliance or enforcement role specified in individual Codes outside of the CCF.

D. DOCUMENTS AND IMPLEMENTATION

8. Framework Overview

- 8.1. The Code Compliance Framework includes this document as well the procedures and policies set out in the Operations Manual.
- 8.2. In the event of any conflict between this document and the Operations Manual, this document shall prevail.

9. Implementation

- 9.1. The CCF shall take effect from the date it is endorsed by the TCF Board.
- 9.2. It is recognised that some existing TCF Codes are not within the scope of the CCF and the CCF shall not apply to those Codes.

E. COMPLIANCE ROLES & RESPONSIBILITIES

10. TCF Member and Code Signatory Obligations and Rights

- 10.1. Parties who sign up to the CCF agree to:
 - 10.1.1 Assess and monitor their compliance with Codes they are signatory to;
 - 10.1.2 Raise compliance concerns;
 - 10.1.3 Submit a Notice of Potential Breach to the Compliance Officer as soon as any breach is identified, through self-reporting;
 - 10.1.4 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;
 - 10.1.5 Propose appropriate resolution criteria when in breach of a Code; and
 - 10.1.6 Report proactively on the status of breach resolution.
- 10.2. Parties have the right to rectify a breach at any stage of the process of the investigation or resolution of the complaint.

11. Role of Compliance Officer

- 11.1. The role of the Compliance Officer is to:
 - 11.1.1 Perform the administrative function of compliance monitoring and reporting;
 - 11.1.2 Carry out any specific monitoring activity that is detailed in Codes to assess compliance, for example 'mystery shopper' exercises;
 - 11.1.3 Manage the self-certification process;
 - 11.1.4 Assist TCF Members and Non-Member signatories to understand their Code compliance requirements;
 - 11.1.5 Encourage and support compliance with Codes by providing support to new and potential signatories on TCF Code obligations;
 - 11.1.6 Manage Compliance Issues through the four-stage Compliance Management Process and appeals process;
 - 11.1.7 Provide annual reports to the Board on the operation of the framework, cost of

investigation of Confirmed Breaches, and performance; and

11.1.8 Maintain the Operations Manual.

12. Role of the Enforcement Agent(s)

12.1. The role of the Enforcement Agent, when requested, is to participate in Stage Three (Evaluation and Decision) of the Compliance Management Process to:

12.1.1 Investigate potential breaches;

12.1.2 Determine whether a breach exists;

12.1.3 Identify an appropriate timetable for implementing Sanctions (if any); and

12.1.4 Request independent audits as described in clause 32.4.4.

13. Role of the Independent Auditor

13.1. 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).

14. Role of the Appeal Agent

14.1. The role of the Appeal Agent, when requested, is to:

14.1.1 Consider any Stage Three Compliance Officer and/or Enforcement Agent decisions that are appealed within the required timeframes by the Respondent;

14.1.2 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;

14.1.3 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.

15. Role of the TCF CEO

15.1. The role of the TCF CEO is:

15.1.1 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

15.1.2 Sanctions - Approve any media releases in relation to public censure notices issued as Sanctions for Confirmed Breaches by Code Signatories.

16. Role of the TCF Board

16.1. The role of the TCF Board is to:

16.1.1 Appoint the Compliance Officer, Enforcement Agent(s), Appeal Agent(s) and any Independent Auditor(s) for the purposes of managing the CCF;

16.1.2 Approve amendments to the CCF and the Operations Manual;

16.1.3 Approve changes to the CCF Code category criteria as defined in Section F of this document;

16.1.4 Approve the Code category that a TCF Code will belong to under the CCF, having regard to the recommendation of the working party who developed or reviewed the Code;

16.1.5 Review the Code Compliance activity report prepared by the Compliance Officer and approve its publication on the TCF website;

16.1.6 Annually review the cost, usage and effectiveness of the Framework; and

16.1.7 To delegate any authority or activity to the TCF CEO as it sees fit.

17. CCF Review

17.1. The TCF will review the CCF no later than five years following the previous review, or earlier if

required changes have been identified.

- 17.2. 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.
- 17.3. Any suggested amendments to the CCF will be published for consultation by TCF Members. Following consultation and approval by the Policy Committee, the amended CCF will be submitted to the TCF Board for approval.

F. CODE CATEGORIES AND REVIEW

18. There are three types of Codes - Regulated, Mandatory and Voluntary.
19. The relevant working party is responsible for making a recommendation to the TCF Board as to which category a TCF Code belongs to. It is the responsibility of the TCF Board to approve that recommendation.
20. A Regulated Code must be approved by the Commerce Commission.
21. TCF Codes will be reviewed by the relevant working party no later than five years following their previous review, or earlier if required changes have been identified. The working party must make a recommendation as to which category the reviewed TCF Code should belong to when it is presented to the TCF Board for approval.

TCF Code Category	Definition
Regulated Code	A Regulated Code is a telecommunications access code drafted by the TCF in accordance with Schedule 2, Part 1 of the Telecommunications Act 2001 and formally approved by the Commerce Commission.
Mandatory Code	A Mandatory Code is a Self-Regulated Code that is compulsory for relevant TCF Members to become signatories to, as approved by the TCF Board. Each Mandatory Code will specify which telecommunications services it relates to, and each TCF Member who provides the specified telecommunications service will be required to sign up to that Code. Other Parties may also choose to sign up to a Mandatory Code.
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. Administration, Monitoring & Reporting
 - 22.1. The administration and overhead costs of managing the CCF by the Compliance Officer is funded by the TCF.
23. Compliance Officer Funding
 - 23.1. The CCF Compliance Officer activities for Stages One, Two and Four will be funded by the TCF.
 - 23.2. The CCF Compliance Officer 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.
24. Enforcement Agent Funding
 - 24.1. 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.

25. Independent Audit

25.1. 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.

26. Appeals

26.1. 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 24.2.2 or 24.3.1.

26.2. The cost of the Appeal will be agreed in advance with the Respondent before the Appeal commences.

27. 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

28. Preliminary Matters

28.1. The CCF self-certification, monitoring and reporting procedures are designed to assist with assessing Code Signatories' overall level of compliance with TCF Codes.

28.2. The CCF self-certification, monitoring and reporting requirements are in addition to any specific monitoring and reporting provisions identified in individual TCF Codes.

28.3. The TCF is not responsible for any self-certification, monitoring and reporting costs incurred by a Party.

28.4. 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.

28.5. The TCF is not responsible for evaluating the adequacy of any end-products or services.

29. Self-Certification

29.1. *Initial Self-Certification:* A Party must initially self-certify that it is compliant with any TCF Code the Party becomes a *new* Code Signatory to within three months of the date it becomes a Code Signatory.

29.2. *Annual Self-Certification:* a Party must annually self-certify its compliance with each TCF Code for which it is 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 and in each subsequent year following its initial self-certification.

29.3. 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.

29.4. 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:

29.4.1 The name of the TCF Code(s) to which failure to self-certify in the timeframe applies;

29.4.2 The reason(s) for being unable to provide the information; and

29.4.3 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.

- 29.5. Failure to provide a self-certification could result in the Compliance Officer opening an investigation as if they had received a Notice of Potential Breach.

30. Compliance Reporting

- 30.1. The Compliance Officer will provide to the TCF Board and publish on the TCF website a six-monthly report summarising activity under the CCF, including any failure by a Party to self-certify and any Notices of Potential Breach received.
- 30.2. The Compliance Officer will publish on the TCF website any failure by a Party to self-certify within the required timeframe.
- 30.3. The Compliance Officer will publish on 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.
- 30.4. Details on the timeframes and information that will be published is provided in Section E of the Operations Manual.

31. Compliance Monitoring

- 31.1. 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.

32. Regulated Codes

- 32.1. Compliance and monitoring requirements for Regulated Codes will be set out in each individual Regulated Code.

I. COMPLIANCE ISSUE MANAGEMENT

33. General Principles

- 33.1. 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.
- 33.2. 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.
- 33.3. Notices of Potential Breach shall be accepted by the CCF Compliance Officer from the TDR Scheme Agent about any TCF Code, 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 TDRL Board.
- 33.4. The TDR Scheme Agent may notify the TCF about potential systemic issues that they have identified, in which case the TCF will liaise with Members to further investigate the issue and will provide the TDR Scheme Agent with results from the investigation.
- 33.5. 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.

34. Who can raise a potential breach

- 34.1. The following Parties can highlight a potential breach of a TCF Code:
- 34.1.1 A Code Signatory through self-reporting;
- 34.1.2 A Code Signatory in regard to another Code Signatory for the Code;
- 34.1.3 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;
- 34.1.4 The Compliance Officer as a result of observed actual or potential non-compliance; or
- 34.1.5 The TDR Scheme Agent.
- 34.2. All Notices of Potential Breach must be made in writing in the format prescribed in Section H of the Operations Manual.
- 34.3. A Complainant can withdraw their Notice of Potential Breach at any time.
- 35. Process Overview**
 - 35.1. The Compliance Management Process follows a four-stage process, summarised below.
 - 35.2. Stage One (Register)**
 - 35.2.1 Notice of Potential Breach submitted to the Compliance Officer by a Complainant.
 - 35.2.2 If the issue is between two Parties, 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 prior to the Compliance Issue Management process being launched. The Complainant and Respondent will engage in discussions in good faith to try to address the alleged breach outside the Compliance Issue Management process.
 - 35.2.3 The relevant Parties will ensure the Compliance Officer is kept updated as to the progress of those discussions. If the issue remains unresolved after 15 Working Days, the Complainant may request the Compliance Officer to establish whether the Notice of Potential Breach will proceed to Stage Two or will be rejected as invalid.
 - 35.3. Stage Two (Notify and Acknowledge)**
 - 35.3.1 The Compliance Officer sends a Compliance Issue Notice to the Respondent.
 - 35.3.2 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).
 - 35.3.3 The Compliance Officer notifies the Commerce Commission if the Compliance Issue relates to a Regulated Code.
 - 35.3.4 The Compliance Issue is progressed to Stage Three.
 - 35.4. Stage Three (Evaluation and Decision):**
 - 35.4.1 The Respondent investigates the Compliance Issue and submits a Proposed Resolution to the Compliance Officer within a specified timeframe.
 - 35.4.2 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 be evaluated by the Compliance Officer. If the issue is deemed Complex by the Compliance Officer, the Compliance Officer can request the Enforcement Agent to perform the evaluation.
 - 35.4.3 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.
 - 35.4.4 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 a mechanism for an independent audit to occur.
- c) Use of an Independent Auditor must be agreed by the Respondent and approved by the TCF CEO before it can proceed.

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

35.4.6 The Compliance Officer (or Enforcement Agent if used) may agree, based 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 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.

35.4.7 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.

35.5. Stage Four (Resolution and Sanctions):

35.5.1 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.

35.5.2 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.

36. Sanctions

36.1. A phased 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.

36.2. No Sanctions will involve financial penalty; however, a Respondent that is found to be in breach will be liable for costs incurred in Stage Three as described in section G.

36.3. 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.

36.4. Refer to Appendix 3 for the list of Sanctions applicable under the CCF.

37. Appeals

37.1. 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.

37.2. The Appeal will only review existing papers and responses and will not involve any new investigations. Further information is provided in the Operations Manual.

37.3. If the decision in the Notice of Confirmed Breach is appealed by the Respondent, the Sanction will still apply, and a notice will be published on the TCF website advising that the Notice of Confirmed Breach is under appeal.

37.4. The case will be closed when the Compliance Issue has been resolved by the Respondent.

37.5. Costs of any appeal will be paid in accordance with clause 24.5.

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 is the Enforcement Agent. Their responsibility is to 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 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 on the TCF website.
Code Signatory/ies	Means a Party 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 CCF.
Complainant	A Party that submits a Notice of Potential Breach to the TCF alleging that a Code Signatory is in breach of that Code's requirements.
Complex	Means a Compliance Issue where the breach is not clear and will require a degree of detailed knowledge to evaluate beyond which the Compliance Officer could reasonably be expected to possess.
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 E 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 CCF.
Confirmed Breach	Means a Party has been found to be non-compliant with a Regulated, Mandatory or Voluntary Code (under the CCF) based on the determination by the Compliance Officer or Enforcement Agent (as applicable) during the Compliance Management Process.
Enforcement Agent	<p>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.</p> <p>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.</p>
Expected Breach	Means the expected date that a breach of a TCF Code is expected to be resolved

Resolve Date	so that the relevant Party will return to full compliance.
Mandatory Code	Means a Self-Regulated Code that is compulsory for relevant TCF Members to become signatories to, as approved by the TCF Board. Each Mandatory Code will specify which telecommunications services it relates to, and each TCF Member who provides the specified telecommunications service will be required to sign up to that Code. Other Parties may also choose to sign up to a Mandatory Code.
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 Section E of the Operations Manual.
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, Person 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 a telecommunications access code drafted by the TCF in accordance with Schedule 2, Part 1 of the Telecommunications Act 2001 and formally approved by the Commerce Commission.
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.
Self-Regulated Code	Means a Code prepared by the TCF which is not a Regulated Code.
TCF Codes	Includes Regulated Codes and Self-Regulated Codes.
TCF Member	Means a Person who has agreed in writing to be a member of the TCF.
TDR Scheme Agent	Means the company contracted by TDRL to provide the Telecommunications Dispute Resolution Scheme service.
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 Limited or TDRL	Means the Company which funds and oversees the Telecommunications Dispute Resolution Scheme.
Telecommunications Dispute Resolution Scheme or TDR or TDRS	Is the Telecommunications industry dispute resolution service.

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 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 this is confirmed by the respondent, the Sanctions escalation ends, and existing Sanctions are removed.

When considering an appropriate timeframe for a breach to be resolved, this will be in consultation with the Party and 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 named in the breach.
3. Length of time the breach remained unresolved.
4. Whether the alleged Party voluntarily disclosed the breach.
5. Past conduct of the alleged Party.

Sanction	Code Categories this Sanction applies to	Explanatory notes	Criteria for applying Sanction	Timeframe for applying this Sanction
1 Announcement of failure to self-certify on the TCF website	Voluntary Mandatory	A failure by a TCF Code Signatory to provide a required initial or annual self-certification form will be published on the TCF website once the Compliance Officer has escalated the issue and provided warning of the announcement.	A Code Signatory fails to provide an initial or annual self-certification form as required.	The self-certification form is overdue, and the Compliance Officer has provided warning of the announcement.
2 Announcement of breach on TCF website	Voluntary Mandatory Regulated	Any Confirmed Breach will immediately be published on the TCF website 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.	A Confirmed Breach has been found.	The date of issuing a Notice of Confirmed Breach to a Respondent by the Compliance Officer.
3 Announcement of enduring breach on TCF website	Voluntary Mandatory Regulated	Any ongoing Confirmed Breach will immediately be published in full on the TCF website.	A Confirmed Breach is not resolved by the Expected Breach Resolve Date.	The day after the Expected Breach Resolve Date if the breach remains.
4 Copy of notice sent to Commerce Commission	Regulated	Notices in relation to a Regulated Code will be forwarded to the Commerce Commission, as required by that Code.	Where a Notice of Potential Breach or Confirmed Breach relates to a Regulated Code.	The date of issuing a Notice of Potential Breach or Notice of Confirmed Breach to the Respondent by the Compliance Officer, in relation to a Regulated Code.

Sanction	Code Categories this Sanction applies to	Explanatory notes	Criteria for applying Sanction	Timeframe for applying this Sanction
6 Announcement of breach to Code Signatories and TCF Members.	Voluntary Mandatory Regulated	An announcement by the TCF to Code Signatories and TCF Members about a Code Signatory's Confirmed Breach.	Failure by a Respondent to resolve a Compliance Issue in the timeframe agreed and documented in the Notice of Confirmed Breach.	10 Business Days after the Expected Breach Resolution Day if the breach remains.
7 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.	Failure by a Respondent to resolve a 'Major' impact level Compliance Issue in the timeframe agreed and documented in the Notice of Confirmed Breach.	20 Business Days after the Expected Breach Resolution Day if the breach remains.
8 Escalation to the Commerce Commission for action.	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.	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.	40 Business Days after the Expected Breach Resolution Day if the breach remains.

Where investigation has found a signatory may have breached legislation outside of TCF Codes, the TCF will recommend that the signatory reports this to the appropriate authority according to that legislation. Where the legislation has breach clauses that may require the TCF to also report this to the relevant authority, the TCF will do so and will notify the signatory of this as part of our concluding report. The TCF will ensure it seeks legal advice on the matter prior to reporting.

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