

**Memorandum:**

**To: Associations, board members, Zone Directors and off-board chairs**

**CC: Federation Office**

**From: Ross Fallen, Acting National Secretary**

**Date: May 18<sup>th</sup>, 2022**

**Subject: Broadband and consumer rights. Commerce Commission media release  
17/05/2022 (2 pages)**

**Greetings to all,** Please find below a media release by the Commerce Commission on broadband Media release issued May 17<sup>th</sup>, 2022. We thank Energy Chair Bern Sommerfeld for bringing this to our members' attention.

**The Commerce Commission welcomes new marketing codes for the telecommunications industry that will help consumers make informed choices about the best broadband service for them.** The new codes were developed by the New Zealand Telecommunications Forum (TCF) in response to guidelines issued by the Commission using new powers to improve retail service quality for consumers. "We've been encouraged by the positive response from the industry to the challenge of cleaning-up broadband marketing. Providers have changed their marketing practices and the codes that have been issued should "lock in" the improvements that have been made for consumers," said Telecommunications Commissioner Tristan Gilbertson. Mr Gilbertson said that there are three key benefits for consumers resulting from the Commission's action:

- **Getting sufficient notice of any change to their copper service, so they're not rushed into making decisions about a replacement service and getting information about the full range of alternative services available to them.**
- **Speed indications in advertising that must be based on independent testing under the Measuring Broadband New Zealand programme (rather than "up to" or theoretical maximum speeds).**
- **The right to walk away from their broadband plan or provider, without penalty, when a service materially fails to deliver what was advertised.**

"These are interlocking measures designed to ensure consumers get the information they need to make informed choices about the best broadband service for them, backed-up by an "exit right" if the service doesn't live up to expectations." Mr Gilbertson said the Commission will be watching this area closely as part of its ongoing market monitoring work. "We want to make sure the changes providers have made are embedded in their marketing practices. We expect providers to keep us informed on how they are implementing the codes, as well as on how they are making their customers aware of their rights under the codes," he said.

**Background:** The Commission [wrote](#) to the industry in August last year in response to increasing consumer concern around the marketing of broadband services and seeking views on how to quickly clear up confusion. Some consumers were being led to believe that their copper service was about to be withdrawn, when it wasn't, and others were being told they had to switch to a particular service, when there were various other options available. All services were being sold using "up to" or theoretical maximum speeds that many consumers would not be able to achieve. In November the Commission [issued guidelines](#) to improve broadband marketing conduct. The Commission conveyed its expectation that broadband providers should immediately apply the guidelines to their marketing practices, to protect consumers during the busy Christmas period. The Commission also directed the industry to convert the guidelines into a binding industry code through the TCF. Providers responded by changing their marketing practices and have worked constructively through the TCF to convert the Commission's guidelines into two binding industry codes. These codes formally commence on 7 May and 30 July 2022 and formalise changes already made by broadband providers while also providing an industry monitoring and enforcement mechanism.

[Broadband marketing code](#)  
[Copper and PSTN transition code](#)

**Local fibre companies, including Chorus, which are not bound by the TCF codes, have issued a separate commitment to the Commission to apply the relevant provisions to the extent relevant in their advertising.** The Commission will separately monitor industry performance and retains the power to issue a binding Commission code with potential statutory penalties for non-compliance if the industry codes fail to deliver their intended purpose.

**Media contact**

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**Regards**

**Ross Fallen**

**Acting National Secretary**