

Submission on discussion document: *Enhancing telecommunications regulatory and funding frameworks*

Your name and organisation

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Responses to discussion document questions

Introduction

1

Do you have any feedback about the proposed criteria to assess the options in the next phase of this work? Are there other criteria that we should consider?

For copper withdrawal, you only seem to be contemplating Specified Fibre Areas. There are many high-quality WISPs in New Zealand providing services in areas that are decades away from fibre, and potentially a decade away from cellular coverage. Are there any thoughts about Copper Withdrawal in areas that are well serviced by WISPs (or mobile), where Chorus is maintaining potentially very expensive infrastructure that is largely unused.

Perhaps changes in relieving Chorus of Country Set radios and rural copper in areas that have other options would be an option in exchange for them committing to expanding their fibre footprint(s)

Section 1: Consumer access to dispute resolution

2

Do you consider that the lack of a mandatory requirement for telecommunications service providers to belong to an industry dispute resolution scheme is a problem that needs to be addressed?

No, there are many dispute processes available, and it can muddy the waters with where to go for a dispute when your telecommunications could be part of a bundle that has other dispute processes also

3

For telecommunications service providers who are not members of the Telecommunications Dispute Resolution scheme, why have you chosen not to be a member? Are you a member of another scheme, why or why not?

Inspire Net is not a member of the Disputes Resolution. We have been in business for over 25, during that time, we have had 3 disputes that could not be directly resolved with our customers, 2 handled in small claims where we were in the right, and 1 handled by Consumer when we were a Consumer Trusted partner, where we were also in the right. The cost of the TDRS is over \$23k/annum for us, so this would be around \$199,000 / dispute.

We would be more likely to join this if it was a small / reasonable membership fee and a per dispute fee, it feels wrong that we are either subsidising poor performance by others in the industry, else subsidising an over bloated regime.

The current regime is crippling for a small business just starting to scale, you hit \$10million of turnover (or approximately 0.15% market share) and fees go from \$1,100 to \$23,000, at the same time you are also hit with the TDL and TRL along with the associated auditing fees.

4 For consumers who have had issues with their telecommunications service providers, what were your options for dispute resolution, and what was your experience?

5 What are your views on the options we have identified? Do you have a preference, if so, why? Are there any options we have not identified?

The danger of a mandatory scheme is that it becomes a monopoly provider of the service, with no competition, and can charge what it likes. Many of the smaller providers run very good operations with impeccable customer support, and the price of the TDRS under its current regime would be prohibitive.

Section 2: Accessing shared property for fibre installations

Issue 1: Expiry of statutory rights for fibre installations

6 What are your views on the options we have identified? Do you have a preference, if so, why? Are there any options we have not identified?

I think that this was a useful piece of regulation to suit many modern property issues, and additionally the costs and time involved of completing easements. I think extending the term makes sense if nothing is coming along as part of the RMA reforms.

7 If you are a fibre provider who uses these rights, what are the implications of these options on your business? Please provide data and evidence to support your submission where possible.

We are a fibre provider but do not use these rights, as we are only small and the entry level costs quoted at the time were very prohibitive for us (we were quoted \$15k/annum to join, and a commitment of 10 years). As we start to grow, this is something that we may look to use, depending on future regulation determining if we would continue to build more fibre.

8 If the statutory rights were reinstated, what do you think is an appropriate expiry date (if any)?

I think another 7-10 years makes sense to cover off the majority of the urban fibre build that is likely to happen in NZ.

Issue 2: Invoking statutory rights for high impact installations

9 What are your views on the options we have identified? Do you have a preference, if so, why?

10 If the statutory rights were expanded to cover some high impact installs, what type of 'high impact' installs should be permitted? If you are a fibre provider, please provide examples of what changes to the rights would make a significant difference to enabling more fibre connections.

Issue 3: Invoking the statutory rights without a retail connection order from an internet service provider

11 What are your views on the options we have identified? Do you have a preference, if so, why? Please provide data and evidence to support your submission where possible.

I think this makes sense depending on legislation around the copper withdrawal program, to enable services to be available at a gate if copper is removed, even though the copper may not have been in use.

Section 3: Telecommunications levy settings

Issue 1: Identifying liable persons

12

Do you agree that our levy liability settings need to be adjusted to ensure all satellite broadband providers providing services to New Zealanders are captured (where they meet the revenue threshold)?

Yes, the market should be fair, so all players providing service in NZ should be captured by the levy (where they meet the revenue threshold)

13

Do you agree adjustments to our levy liability settings are required to ensure our levy regime is flexible enough to respond to market changes (such as new market entrants)? If so, what changes do you consider would be appropriate in this regard?

14

Do you support MBIE's preferred option (option 2)? Why or why not? Are there any options we have not identified?

Option 2 for reason in answer 12

15

What advantages and disadvantages do you consider could arise from introducing flexibility into the way telecommunications operators might become liable for the levy, for example the ability to be made liable through regulation?

Issue 2: Regulatory process to set the total Telecommunications Development Levy amount

16

How well do you consider the process for setting the amount of the Telecommunications Development Levy (in the Act) works? What are the implications of having the amount set in the Act, in terms of consultation, timing, and flexibility for changing needs?

17

Do you agree with MBIE's preferred option (option 2)? Why or why not? Are there any options we have not identified?

Option 2, so long as the rules / rigour around increasing it is truly justifiable, to avoid electioneering promises based on levying the industry. At the end of the day the customer pays for this levy in the end, so by increasing all the costs onto providers, it creates inflation to the end user, as the industry has been in a race to zero for so long that there is nothing left for covering these increases.

18

What measures would you consider necessary to accompany any new regulation making power under MBIE's preferred option? For example, clarifying when relevant stakeholders should be consulted and what considerations should be taken into account.

The rules around an increase need to be set, along with who would be administering where the levy is spent, to ensure it is not just sucked away into some general fund somewhere.

Section 4: Identifying participants in the market

19

Do you consider there is a need for a registration requirement for telecommunications providers operating in New Zealand (when entering the market, as well as updating contact and other business details over time)? Why or why not?

Although I am not a fan of any of these processes, I believe it is time for a register of providers, preferably at a very minimal fee. The current lack of information means that many other requirements are hard to meet (TICSA, lawful intercept, vulnerable user etc) as there is no method to reach the whole industry

20

What are your views on the options we have identified? Do you have a preference, if so, why? Are there any options we have not identified?

The fees would need to be minimal as many entrants to the market are very small, but potentially no less lacking in obligations that need to be met. I do not see any information about the penalty for not registering.

21

What would be the implications of a registration requirement for your business?

I see no issues with registration if the fee structure is minimal and only effectively for a database administration entry.

22

Do you see any benefits or problems with information provided for registration being released/disclosed publicly? If so, what types of information should or should not be disclosed?

I would suggest a 2 tier register, where company details in the register are published, but individuals are not published, however are available for ComCom / Police / GCSB etc.

Section 5: Enhancing information flow to the Emergency Location Information System

23

Do you agree with the potential risks relating to the provision of information into the Emergency Location Information System that we have identified? Why or why not?

24	Do you agree with MBIE's preferred option (option 2), to regulate the provision of emergency location information? Why or why not?
	Yes. With the advent of wifi calling and other services, polling the device for its location is the best outcome, so long as the rules are robust around who can access this data and when
25	If option 2 were progressed, which types of entities (eg mobile network operators, or other providers that hold information derived from mobile devices) should be captured by new regulatory requirements?
	I think that this should cover all entities providing a service to a mobile device that knows its location, be that a mobile or satellite provider.
26	What is your view on the potential impacts of progressing option 2, including on providers that would be in scope, and on the system as a whole?

Section 6: Governance settings in 'other' local fibre company constitutions

Issue 1: Governance of permitted business activities

27	Do you agree that it is appropriate to consider changes to the constitutional settings that govern the other LFCs? Why or why not?
	Yes, the playing field is not even between LFCs at present with Chorus being able to build anywhere, and other LFCs being locked to candidate areas, this is not a truly competitive environment
28	Do you agree with MBIE's preferred option (option 2), which would allow the other LFCs to operate in any market, with a restriction on supplying telecommunications services to end users? Why or why not?
	Yes, see answer 27
29	What impact would there be on competition in other markets if the other LFCs were able to operate in those markets? Do you consider that this needs to be mitigated in some way?
	We see the smaller LFCs being much more competitive in new subdivision work that Chorus, and I believe that competition here would help ensure best consumer outcomes

Issue 2: Process to seek agreement to operate at layer 3 or 4

30	If you are one of the three 'other' local fibre companies, do you have any feedback about the current process? How does the process impact your decisions to seek consent (or not) to operate at layer 3 or 4?
31	Do you support any of the options described above? Why or why not? Are there any other options that we should consider?
	I think the other LFCs and Chorus should be treated the same to encourage competition.

Section 7: Other matters

Issue 1: Considering non-regulated fibre networks in specified fibre areas

32	Can you provide examples of where non-regulated fibre service providers are deploying fibre, and what type of specifications this fibre is being built to (ie is it openly available or built for private use, is it wholesaled, or sold directly to consumers)?
	We are a “non regulated fibre service” and have been building fibre since well before the UFB program even came about. We are a fully integrated fibre provider at all levels of the network stack. Currently we wholesale dark fibre and higher end business services to other providers, but our residential network is limited to our retail customers only. We are a network operator under the act, and as such all civil work is built to required standards. We build to the “UFB standard” of 2 fibres to a dwelling, an ET outside the dwelling and then cable inside to an ONT that has 4 Gbit ethernet ports and 2 ATA ports available, along with low split ratios, and splitters capable of supporting future standards. We market our fibre product exactly the same as our UFB products on our network, at our network core it is treated exactly the same as LFC fibre customers, and we offer the same plans / speeds / prices / products across all LFCs as well as our own fibre
33	What are your views on the options we have identified? Do you have a preference, if so, why? Are there any options we have not identified?

I believe that our fibre should be deemed a specified fibre area, however I think there need to be some rules around open access. There is no sane market, at this time, for an LFC to come and overbuild our network, especially at a time when other areas are crying out for copper replacement. Similarly, at this time, there is no reason that Chorus should have to maintain a failing copper network at its expense, when fibre is available at a location.

We do not open access our network like an LFC due to its current smaller scale, the cost of developing all the systems to open access our GPON network are too high, relative to the number of customers on the network. An example of this is Network Tasman who have a wholesale fibre network, but not many Retail ISPs sell on it as its too small to bother with a handover. If we had to open access and then not retail, it would not work at the scale we are currently at, as none of the Retail ISPs would be interested in a handover and all the associated systems for such a small network.

If Fibre owner / builders like ourselves are included, I believe there should be a requirement at which the network has to become open access.

To me that would seem that once it covers 7,500-10,000 dwellings might be an appropriate limit, where the cost of open accessing the network, and the likelihood of Retail Service providers to want to sell on it would meet.

The biggest challenge with the smaller fibre operators is our vertical integration, however if open access rules come about at around 10,000 dwellings or similar, perhaps a wholesale plan structure also must be made available (similar to how LFCs have plan prices). It would not be possible to get to 10,000 customers and then suddenly not be a retailer overnight.

34

What provisions or minimum standards would need to be in place if fibre built by non-regulated fibre service providers were considered as part of the specified fibre area assessment?

I think the requirements of being a Network Operator should cover the civil side of this, and then a requirement for last mile build standards, plan offerings, gpon split ratios, coverage data provided on the broadbandmap.nz site.

Something along the lines of there must be a 300/100Mbit UFB equivalent or better plan available for residential, along with an ATA port, split ratio should not be above 1:32 for GPON