

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

## Your name and organisation

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## Responses to discussion document questions

### Introduction

<b>1</b>	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?
	n/a

### Section 1: Consumer access to dispute resolution

<b>2</b>	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
<b>3</b>	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?
	<p>We have never had a dispute that has not been able to be quickly resolved in good faith directly with the end user. We believe that customers in New Zealand have ample choice when it comes to their telco provider, and if a customer sees value in their telco being a member of the TDR then they have the option to do business with one, and not with one that is not a member of the TDR.</p> <p>Telcos operate in a market where they can chose what aspects of their service offering they wish to differentiate on. We chose to differentiate on our relentless pursuit of customer service excellence, and this has worked well in the 20 years we have been operating.</p>
<b>4</b>	For consumers who have had issues with their telecommunications service providers, what were your options for dispute resolution, and what was your experience?
	n/a

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?
	Status quo – let the market decide.

## 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?
	Our preference would be for Option 2, to re-instate the rights for access to shared property for new fibre installs after the current rights expire. Allowing these rights to expire would hinder the next phase of fibre adoption and uptake, particularly in rural areas where there is likely to be more shared property and right of way considerations to take into account.
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.
8	If the statutory rights were reinstated, what do you think is an appropriate expiry date (if any)?
	It is likely that the next phase of fibre adoption and uptake will follow a long-tail as the economics of building fibre connectivity to less densely populated regions becomes more challenging. This would suggest a longer expiration on the rights would be beneficial. However this does need to be balanced with ongoing impact on private property rights. As such we would propose a 15 year extension, to 2040.
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?
	Our preference would be to maintain the status quo, in order to fairly balance the impact on private property rights.
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

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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.

The example given in paragraph 53 is compelling. Landlords and property developers should have the option to make their properties “fibre ready” without a retail service order – assuming the fibre provider is willing to undertake this work – under the same terms as someone who is ordering a retail service connection and making use of the statutory rights. We see no difference in this case as both achieve the same goal of enabling fibre uptake. Whether a retail connection is involved does not impact the shared property owners.

### Section 3: Telecommunications levy settings

#### Issue 1: Identifying liable persons

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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.

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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?

Yes. Any telecommunications service (independent of method of delivery) delivered to a location in New Zealand should be covered.

14

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

Yes, we support a level playing field for all operators delivering services to New Zealanders. The consideration that "providers brought into scope may pass any levy costs onto consumers" is a good reason why they should be included, as they are not bearing the same costs as other providers currently, and are therefore operating at an advantage. This would allow for more accurate pricing to be discovered.

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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?

No comment.

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

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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?

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

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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.

#### Section 4: Identifying participants in the market

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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?

We do not believe there is a strict *need*, however we can accept that there would be efficiencies gained for the Commission in implementing a registration requirement, and would allow the Commission to better communicate with telecommunication providers as a whole.

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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?

We are comfortable with either option.

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

Very little.

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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?

We believe that the only information that should be made public would be the name of the organisation registering. Any personally identifiable information such as contact details, email addresses, etc, should be kept private for the Commission's use only.

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

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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?

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Do you agree with MBIE's preferred option (option 2), to regulate the provision of emergency location information? Why or why not?

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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?

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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, otherwise Chorus will continue to operate at an unfair advantage to the other LFCs.

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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, this provides close equivalence with Chorus, enables the other LFCs to continue to grow their businesses, while still protecting retail/wholesale separation.

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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?

Chorus already operates in "other markets", so this decision will improve competition in these markets and provide better outcomes for end-users. We do not consider that this requires mitigation, particularly as Chorus and the LFCs will continue to be restricted to providing wholesale services only.

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

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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?

n/a

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Do you support any of the options described above? Why or why not? Are there any other options that we should consider?

n/a

## Section 7: Other matters

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

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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 (Lightwire) have invested in deploying XGS-PON FTTH networks to rural communities in the Waikato that are not covered by UFB or UFB2 funded networks, and plan to continue doing so where business cases can be made. These networks are designed close to UFB specifications but are privately funded. The commercial reality of deploying FTTH networks in rural areas using private funding requires that Lightwire also provide the retail service offering, as a wholesale-only model will not provide the required investment payback period. The retail service offering is largely equivalent to standard UFB offerings that are available in urban areas. The networks themselves are technically capable of providing wholesale services to other RSPs and could become open-access (for bitstream services) in the future if required.

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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?

We believe that, particularly in non-UFB rural areas, non-regulated FTTH networks should be considered when the Commerce Commission makes a determination about specified fibre areas.

We agree that there would need to be a set of standards applied to non-regulated FTTH networks for them to be considered, however these standards may not – particularly in rural areas where the cost to serve individual premises is so high – necessarily align with the exact requirements of the original policy intent. For example, we would be open to providing open-access to the network, but the interconnection requirements and wholesale costs may need to differ from the UFB standard in order to remain commercially viable.

Providing clarity to smaller regional operators will enable additional investment in these areas and encourage deployment of fit-for-purpose solutions that will speed up the transition from aging copper services and enhance rural New Zealand's connectivity.

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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?