

Northpower Fibre Limited
Submission on:

**Discussion document: Enhancing
telecommunications regulatory and
funding frameworks (May 2024)**

Submission on MBIE Discussion Document

1. Northpower Fibre Limited (**NFL**) welcomes the opportunity submit on the issues raised in Ministry of Business, Innovation and Employment's (**MBIE**) discussion document, "Enhancing telecommunications regulatory and funding frameworks (May 2024)".
2. NFL is a local fibre company (**LFC**) and owns and operates the ultra-fast fibre network in the Whangarei and Kaipara districts of New Zealand and has over 25,000 connected customers.
3. NFL's submission on MBIE's form is **attached**.

Yours sincerely



Darren Mason

Chief Executive

Northpower Fibre Limited

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Your name and organisation

Name	Darren Mason, Chief Executive
Organisation	Northpower Fibre Limited

Responses to discussion document questions

Introduction

1	<p>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?</p> <p>Regulatory and funding frameworks must adapt as the telecommunications industry evolves. The frameworks should strike a balance between the following principles:</p> <ol style="list-style-type: none"> 1. industry participation: all participants in the telecommunications market should contribute to funding and be subject to the same regulation as their equivalents, all other things being equal; and 2. proportionality: regulatory obligations should be proportionate and commercially reasonable. For example, funding contributions should reflect the size and scale of a particular participant.
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Section 1: Consumer access to dispute resolution

2	<p>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?</p> <p>Yes, regulatory participation should reflect actual market participation. All participants should face equal rules. Consumers should experience consistency of dispute resolution schemes across all service providers.</p>
3	<p>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> <p>We are a member of the scheme.</p>
4	<p>For consumers who have had issues with their telecommunications service providers, what were your options for dispute resolution, and what was your experience?</p> <p>We are not a consumer. We would support an experience that is fair and fast and not drawn out.</p>
5	<p>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?</p> <p>We support option 2, for the reasons above.</p>

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?

At this time, we do not use the statutory rights and instead approach installation opportunities primarily by establishing customer relationships. We therefore do not have a strong view on this point. However, we do think the rights are useful in the event we did wish to utilise them in the future.

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.

As above in 6.

8

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

As above in 6.

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?

As above in 6.

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.

As above in 6.

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.

As above in 6.

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 system should be fair and proportionate.

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?

We agree that adjustments to levy settings require some flexibility. However, it is critical that changes are made:

- on a basis that is fair and proportionate to participant's market share;
- sparingly and with solid justification and evidence; and
- after genuine consideration of participant feedback following consultation.

14

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

We support option 2. All service providers who participate in the market should have a levy liability.

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?

We believe the advantages are that the sector can react to:

- technological and industry change in a market which is constantly evolving at a fast pace; and
- avoidance behaviours by service providers.

We believe one disadvantage is it may increase the risk of an unjustified regulatory change or an over-reactive disproportionate change.

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?

See our answers to 15 above.

17	Do you agree with MBIE's preferred option (option 2)? Why or why not? Are there any options we have not identified?
	We support the status quo until clear and precise process of validation can be justified.
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.
	<p>Powers should be exercised:</p> <ul style="list-style-type: none"> - on a basis that is fair and proportionate to participant's market share; - sparingly and with solid justification and evidence; and - after genuine consideration of participant feedback following consultation.

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?
	Yes. The best person to provide information and data is the participant who is most familiar with those details.
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?
	We prefer option 2.
21	What would be the implications of a registration requirement for your business?
	The model would encourage a higher trust system under which we, as an LFC would be able to spend less resource undertaking due diligence on market entrants. It would make it easier for us to do business with participants and would filter out participants who lack some fundamental processes and compliance models – which is in end user interests too.
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?
	We don't see any problems. The benefits are covered in 21 above.

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?
	We support the use of telecommunications technology to enhance the wellbeing of communities. However, as we don't run those networks, we wish to clarify that we are not best placed to provide a specific submission on the pros and cons of this proposal.
24	Do you agree with MBIE's preferred option (option 2), to regulate the provision of emergency location information? Why or why not?
	As above in 23.
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?
	As above in 23.
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?
	As above in 23.

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?
	<p>Yes. The original UFB initiative has been a very successful project to enable NZ to reach the point where it is today. The focus was appropriate at the time. However, the market has matured and it is now well-established. The time is appropriate to allow the market to operate more freely and to respond to opportunities to enhance the competitive landscape to bring benefits to consumers.</p>
	<p>An example is to provide better broadband to rural communities and to address the digital divide in these areas which can only be good for those end users – promoting more cost-effective options.</p>
	<p>We believe this change would be pro-competition and does not present risk to the vertical supply chain.</p>

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, for the same reasons above in 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 consider that open access (on the basis of MBIE's option 2) would improve competition and market options for consumers without producing negative impacts.
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?
	We have no specific experience with the current process.
31	Do you support any of the options described above? Why or why not? Are there any other options that we should consider?
	We support having the opportunity available (and therefore support option 2).

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 haven't yet seen this rolled-out in our relation to our network areas.
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?
	We support options that promote competition. We don't have a preference provided consumers are protected.
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?
	We would support minimum standards and open access requirements to protect consumers and promote competition.