



Submission on the Discussion Document: Enhancing telecommunications regulatory and funding frameworks

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Public Version

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Introduction

1. TUANZ is pleased to submit in relation to the discussion document released by the Ministry of Business, Innovation & Employment on 7 May 2024. This is in relation to possible changes to a number of policy and regulatory positions that MBIE have identified as possible updates based on the evolving telecommunications market. This submission is a Public Version and contains no confidential information.
2. Our address is PO Box 65503, Mairangi Bay, Northshore 0754 or Level 7, 62 Victoria Street West, Auckland Central. Our email address is office@tuanz.org.nz and our website can be found at <https://www.tuanz.org.nz>.

The Technology Users Association of NZ Inc (TUANZ)

3. TUANZ is the association for the users of digital technology and connectivity which is in its 36th year since incorporation. We are unique - **we believe there is no other group or organisation that is representative of the people and organisations that are the end users of digital technologies in the manner that TUANZ is. We value our independence and will always seek to speak for users without undue influence.**
4. Our member's want to see a lift in the digital economy along with the continued development of strong markets across the technology and connectivity sectors providing real choice for end users – whether corporations or consumers. We seek a national drive to leverage the opportunities that we have with our world leading digital networks. **Our current vision is that by 2033, all businesses and individuals in Aotearoa will have unrestricted access to the technology and services needed to thrive; no one misses out on the opportunities in technology and digital engagement is safe and inclusive for all.**
5. TUANZ position is consistent and clear: **The availability of choice along with competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**

6. TUANZ is a not-for-profit membership association with over 170 members, predominantly large organisations with a strong dependency on digital technology and connectivity as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

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?

We do not have any specific feedback other than we believe the position of users and protecting their interests should always be the most significant criteria when judging the impact of any proposed changes.

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?

Yes - it has been the position of TUANZ for a number of years that membership should be mandatory.

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?

N/A

4

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?

It has been the position of TUANZ for a number of years that membership should be mandatory. Our response should be to support Option 2 which is to make membership in an industry dispute resolution scheme mandatory.

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?

We have had very little complaints from users on this topic given it is up to the LFCs to utilise these rights. We should be guided by the fibre providers in this one but our preferred position would be Option 2 which is to reinstate the rights for access to shared property for new fibre installs after the rights expire.

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.

N/A

8

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

N/A

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?

To date we have not had any approach that this is an issue so we prefer the status quo.

1 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.

N/A

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

1 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.

To date we have not had any approach that this is an issue so we prefer the status quo.

Section 3: Telecommunications levy settings

Issue 1: Identifying liable persons

- 1 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)?

We agree with the need to adjust the levy liability settings to ensure all providers carry their share of the levy.

- 1 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 with this position.

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

Our preferred position is to support this option to amend and future proof the provisions.

- 1 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?

N/A

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

- 1 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?

N/A

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

Our preferred position is to support option 2 to ensure that the levy is able to be adjusted depending on the needs of users. We would like to see the setting moved from the Act to Regulations.

1 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.

N/A

Section 4: Identifying participants in the market

1 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 agree that there is a need to ensure we can identify market participants. While we have not specifically stated that there should be mandatory registration, it has been the tone of our prior submissions on this topic.

2 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 option 2 which is a mandatory registration requirement for telecommunications markets participants. This would bring us into line with a number of overseas jurisdictions.

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

N/A

2 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?

The information should be released publicly so that users are able to judge that a provider is registered as providing services in New Zealand.

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

2 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?

N/A

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

There appears to be no issue at the moment but this could become one at a later date. We do support the backstop of regulation at the least.

2 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?

N/A

2 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?

N/A

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

Issue 1: Governance of permitted business activities

2 Do you agree that it is appropriate to consider changes to the constitutional settings that govern the other LFCs? Why or why not?

We believe that with the changes and developments in infrastructure competition from fibre providers and fixed wireless providers it is the right time to consider changes.

2	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?
	With the maturity of the market, our position should be that the LFCs should be on an equal footing with Chorus and therefore support MBIE's preferred option.
2	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?
	N/A
Issue 2: Process to seek agreement to operate at layer 3 or 4	
3	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
3	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	
3	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)?
	N/A
3	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?

	This is problematic given that the networks built by non-regulated providers are likely to be vertically integrated. Our preference should be a modified form of Option 2 where non-regulated provider networks “can” be considered by the Commission if they believe that the end users will not be disadvantaged
3	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?
	N/A

Final Comments

7. TUANZ welcomes the opportunity to provide the Government with this submission in regards to the issues and solutions raised in this discussion document. This submission provides answers to questions based on our experiences that represent actual users of technology and digital communications. As always we have attempted to provide a succinct and clear enunciation of the views of our members.
8. We look forward to working further with MBIE on this matter..

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