

PUBLIC SUBMISSION by ALEX STEWART on behalf of WOMBATNET LIMITED on "Enhancing telecommunications regulatory and funding frameworks" Discussion Document

Introduction & Executive Summary

WombatNET appreciates the opportunity to provide feedback on MBIE's "Enhancing telecommunications regulatory and funding frameworks" discussion document. As a smaller regional service provider, we offer the following key perspectives:

- The lack of mandatory industry dispute resolution scheme membership is not a pressing concern. The status quo works well for smaller providers, but an entry threshold or free membership for smaller operators should be considered if changed.
- Statutory rights for fibre installations should be reinstated permanently to avoid negative impacts on build times. High-impact installations should still require consent to balance property rights. Fibre-ready developments should be enabled without a retail order.
- Legislative changes are needed to broaden the liability framework to capture all relevant providers equitably and to allow flexibility in setting the Telecommunications Development Levy amount.
- A registration requirement for telecommunications providers would enhance compliance, with basic information publicly disclosed. Existing information reporting should be centralised and leveraged.
- Regulating the provision of location information to the Emergency Location Information System with suitable protections in place is critical.
- The current restrictions on 'other' LFCs expanding beyond core regulated fibre services remain appropriate and should be maintained. Any changes to the approval process for layer 3/4 operations should involve both the Minister and Commerce Commission.
- Regional and rural connectivity delivered by non-regulated fibre networks is important. Considering these networks in specified fibre areas makes sense with appropriate provider reviews.

WombatNET believes the current framework is largely fit for purpose but targeted enhancements in the identified areas could further improve outcomes for the industry and consumers. We look forward to continued engagement with MBIE on these important matters.

Section 1: Consumer access to dispute resolution

The lack of a mandatory requirement for telecommunications service providers to belong to an industry dispute resolution scheme is not an impending issue. WombatNET has not held any membership with the TDRS or had any contact with them.

Many smaller service providers, such as ourselves, can offer and maintain customer experience as a point of difference.

We successfully manage disputes internally and do our very best to prevent them. The disputes tribunal is an accessible third-party avenue for certain remediations, and there are public feedback opportunities as with any other business. However, I cannot speak for the larger telco.

I do not support option 2. Option 1 (Status Quo) is best for the current market, but further investigation is needed into modifying Option 2 to have an entry threshold of, for example, 1000 EULs. Or, membership for those under the threshold should be free.

Section 2: Accessing shared property for fibre installations

Issue 1: Expiry of statutory rights for fibre installations

As the Act and statutory rights stand, I support Option 2 because a permanent removal of the rights would likely significantly impact build and lead times for LFCs. If the rights were reinstated, they should be made permanent.

Issue 2: Invoking statutory rights for high-impact installations

I support Option 1 (Status Quo) because I think this strikes a good property rights balance – I do think affected parties should be required to provide consent for high-impact works. This would prevent delays for installs where there is no lasting impact.

Issue 3: Invoking statutory rights without a retail connection order

I support Option 2. If fibre is available, achieving 'Fibre-Ready' status for new developments should not be hindered by regulation. Developers should be encouraged to ensure that services are immediately available to a new tenant who moves in.

Section 3: Telecommunications levy settings

Issue 1: Identifying liable persons

I wholly support and recommend Option 2. Legislative changes are urgently required to broaden the act to capture all service providers here (meaning any service delivered to/in NZ).

This would likely eventually result in the need for a central register, with only the operators generating over \$10M from NZ operations & sales required to submit revenue data.

Issue 2: Setting the total Telecommunications Development Levy amount

I support a legislative change allowing greater Levy flexibility with additional Minister rights. The current process is no longer fit for purpose, with a \$10M p/a limit showing how it has been overlooked.

Large operators should certainly contribute more to central government development funds, as these often fund the technically non-economically viable efforts and improvements that the private market shies away from.

Section 4: Identifying participants in the market

I support Option 2. It is not hard to find or have reported to ComCom non-conforming operators, and opportunities would be provided to comply before enforcement action is made. If it's a simple mistake of them not knowing, then there would be no costs.

Although I do wonder, with us already having to submit information to TICS, MBIE, IRD and holding registered network operator status under the act, is there a way that this could be simplified/centralised or gathered from elsewhere to avoid any confusion in the first place?

I think an operator's register should be publicly disclosed, but only basic info should be viewable.

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

I support Option 2. With suitable protections in place, we should be utilising any and all of the lifesaving technology available to us, especially when it's in something that almost everyone carries.

All MNOs and MvNOs should be captured.

We use an Australian-based Cloud SIP system for our users with 'landlines'.

There is an option to load emergency information to the number, which I assume would flow to ELIS, such as address name, emergency contact, etc. I can see how this would be a very useful feature, especially for vulnerable users, but the number of people we have using the service is very low.

A similarly helpful feature that applies to the use case of mobile phones should be adopted.

Section 6: Governance settings in 'other' LFC constitutions

Issue 1: Governance of permitted business activities

I would be interested in knowing more about specifically what activities the other LFCs plan to undertake.

I am sure the shareholders are seeking further returns now that uptake has decreased and are left with excess build capacity. These specifically regulated organisations should not be allowed to stray too far from their core operations. We have already seen an LFC test the end-user restriction, with a \$300 Prezy Card offer in the mailbox just before Christmas for sign-up.

I support Option 1 (Status Quo). Although it is difficult to substantiate either perspective without inducing bias, I do think the current settings remain suitable. From my experience, the LFCs are not seeking meaningful opportunities to collaborate with industry in service development (most noticeable in locations near but not in UFB areas).

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

I support Option 2. If there is a documented process for Chorus, this should also be made available to the other LFCs.

It may be worthwhile considering a 'shared' approval avenue whereby the Minister first grants initial consent and then a ministry or vice versa.

I don't agree with ComCom having the full and final say.

Section 7: Other matters

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

123)—This is a demonstration of issues mentioned before—100% coverage in urban areas looks great to Joe Bloggs, but the entire initiative has overlooked regional and rural New Zealand, leaving regional ISPs to fill the critical gaps.

I do not think the industry and regulators, at the high level, fully understand the importance and benefits of these local networks.

I cannot speak to the specifics, but I do support Option 2 in principle.

Allowing for copper withdrawal should not cost the regional operator anything.

However, the business and network (current and historical) performance of the non-regulated company should naturally be reviewed to ensure stability and avoid poor outcomes.

Issue 2: Other minor changes and clarifications

I support simplifying the acts that network operators are subject to if they support furthering digital equity and inclusion. Price-quality information disclosure is an important metric that should be considered.

Closing

I appreciate the opportunity to submit on this discussion document on behalf of WombatNET. We are happy to engage further with MBIE on these matters.

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