

Submission to Telco Review Team

on

Telecommunications Act Review: Options Paper

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Personal Statement

As founder and former MD of the niche telco TeamTalk (revenue of \$55M, staff 200), I have been involved in most aspects of the telecommunications industry including funding, construction of networks, operations, and marketing. I have attracted international investors to the market, have built fibre and wireless based networks and have been involved in reselling the full range of telecommunications services available in New Zealand. My experience is at both a wholesale and retail level and I have been involved with both residential and commercial customers.

I believe that this broad range of experience over a long period of time gives me some unique insights into the operation of the New Zealand telecommunications market. Today I am not employed in the telco industry and I have no investments in any NZ telcos, I therefore have no particular axes to grind and no affiliations to any company or organisation. I do however understand the importance of telecommunications to New Zealand society and have experienced first-hand the impact telecommunications legislation can have on the market.

In short I believe that this stuff is really important to all New Zealand, so I expect that the more constructive feedback you receive the better.

Introductory Remarks

The Telecommunications Act Review Options paper is a well-researched and nicely presented document, the authors should be commended for their work.

Before commenting on the specific questions raised please note the following observations:

1. The entire Telecommunications industry is dependent on the success or failure of Chorus. Unless Chorus can provide high quality, reliable services in a cost effective and timely manner the whole industry and all consumers will suffer. Note: while other fibre providers have a role to play it is only at the margin – it really is all about Chorus.
2. Uncertainty and delays caused by the regulatory process can have a significant impact on company investment decisions, which in turn limits competition and customer choice. This legislation must be drafted to ensure that it is as unambiguous as possible and that any issues that arise can be addressed within the existing industry frameworks in timely manner.
3. It is important to remember that there is more to telecommunications than voice and internet delivered over fixed or cellular networks. Specialist networks for telemetry, emergency services, broadcast services and disaster recovery are all essential parts of New Zealand's telecommunications infrastructure and will remain so long into the future. While these networks are relatively small in terms of revenue and number of users their importance to NZ should not be underestimated and they should not be overlooked in this legislation.
4. As the paper notes the line between fixed line and wireless services is blurring. Although 4G and 5G are unlikely to be substitutes for most fibre based broadband services in the medium or long term, wireless nonetheless has an important part to play in NZ's future telecommunications

environment beyond just cellular. It is important then that fixed line networks are not considered in isolation. One of the key issues in this regard relates to the allocation of radio spectrum. Much spectrum is currently being 'land-banked' which limits competition and innovation in the market.

Answers to Selected Questions Raised in Annex 1

Question	Comment
2.	No – it's not necessary just set the price and move on
3.	Yes – information should be required for copper services and for simplicity and comparison purposes it should be the same as the fibre based services
4.	Yes – The industry is constantly changing and 2020 looks like an appropriate date to review the role of the commissioner.
5.	Yes it should be set in legislation – it avoids debate and distractions in the future
6.	A single RAB is appropriate – keep things simple and consistent.
7.	Yes – but the valuation methodology should be prescribed as far as possible in legislation.
8.	The more specific the RAB is specified in legislation the less room for debate and delays in the future. Its more important that the government puts a stake in the ground and we get on with life than it is leaving the decision to try and get a more 'accurate' or 'correct' answer.
9.	Yes.
11.	Yes. This is purely a matter of principle – anyone competing against government subsidised infrastructure should not be unduly constrained.
14.	No. Set this in legislation – its one less thing to debate down the track
19.	Your preferred option is best precisely for the reasons outlined in the paper.
25.	I agree with these anchor products.
29.	Geographically averaged pricing is a practical solution. Relying on the Commerce Commission creates greater uncertainty.
30.	They should remain as anchor products – competition and alternative technologies are unlikely to have changed the market significantly by this time.
38.	Having consistent pricing creates a level playing field and is therefore the preferred option. It should be noted that decisions on purchasing anchor products in areas where LFCs exist are based more than on price. Having the same price is likely to encourage competition in service quality which is desirable.
43.	The idea that the Commissioner can make recommendations has merit. I have no opinion on the precise criteria required but I suggest that they should be reasonably broad.

44. The decision should ultimately be made by the Minister as the implications on NZ society are broader than the framework used by the commission.

65. 2degrees has yet to turn a profit – and incumbents have made it almost impossible to operate an MVNO, infrastructure is not shared and it is impossible for third parties to build infrastructure in underserved parts of the country because of spectrum being land banked.

I therefore disagree with view that the cellular market is performing well. In practice we have a market that is in a transition phase but is heading towards aduopoly.

Much of this could be addressed by changes to spectrum management rights and by encouraging more use of shared infrastructure – for example infrastructure that can be used by all cellcos should be specified in the cellular blackspot tender.

67/68 This seems unnecessarily complex. Why not just set a date to grandfather copper? E.G. Chorus will no longer guarantee the availability of copper 5 years after fibre is installed.

73. Yes.

74. This is passing the buck.

Retailers should be responsible to their customers and indeed I suspect that most retailers would want to retain a direct relationship with their customers when an issue goes through a complaints process.

In most cases the wholesaler only provides a small portion of the actual service that a customer receives. For example billing, packet shaping, international bandwidth, CPE etc are all outside of the wholesaler's influence so it is not practical for wholesalers to be responsible for complaints.

While wholesalers are far from perfect I have frequently seen them used as a convenient whipping boy by retailers. In my own experience failures are just as likely to have occurred because of equipment or process breakdowns within my own companies as they are with the wholesalers.

75. The TCF does not appear capable of managing the complaints scheme. Indeed, the TCF is seen by many as simply a cartel controlled by the largest industry players for their own benefit. I suggest that the Commerce Commission review the existing scheme and propose an alternative. There are several models which would work I would suggest bundling the complaints process in with the network performance monitoring function currently managed by the Commission and have the Commission tender the whole function out to an independent third party.