



**Submission to MBIE on:
Telecommunications Act Review: Options Paper
September 2016**

This submission is made by the New Zealand Telecommunications Forum Incorporated (TCF). The TCF is the telecommunications sector's industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. The TCF enables the industry to work together and to discuss issues and topics collaboratively, to reach acceptable solutions that can be developed and implemented successfully. Its members represent 95% of the sector.

This submission sets out TCF members' collective views¹ on the key areas discussed in the MBIE Telecommunications Act Review Options Paper (**Options Paper**) and the areas the TCF considers should be given careful consideration. Individual members will be making their own submissions on aspects that are of particular importance to them.

This submission focusses on three issues:

- TCF support for the Telecommunications Act (the Act) allowing for a commercial alternative to regulation (question 47);
- Managing copper to fibre migration (questions 67 and 68); and
- Dispute resolution for telecommunications (question 74 and 75).

Commercial Alternative

Do you support implementing price regulation for Chorus at 2020, or as a backstop?

The Options Paper sets out the proposed regulatory regime for Telecommunications post-2020. The framework provides for a building blocks pricing approach to the regulation of fixed line telecommunications services. It is premised on the Commerce Commission (the **Commission**)

¹ Except for Trustpower who does not support the Industry comment under the section headed "Commercial Alternative". Trustpower does support the remainder of the submission.

establishing input methodologies for the basic building blocks, setting out requirements for information disclosure, then setting a revenue cap with price capped anchor products.

The TCF believes that the Act must provide an opportunity for commercially negotiated contracts to apply post 2020. Open access deeds are expected to continue to apply to such commercially negotiated contracts. If a decision to legislate a revenue cap/anchor product approach is taken, as set out as the preferred approach in the Options Paper, we recommend that the Commission commences its work establishing the regulatory framework and determining revenue requirements and price caps for the anchor products, while the Chorus and the Local Fibre Companies (**LFCs**) continue discussions with their retail service provider (**RSP**) customers to see if a commercial solution can be reached. In the event that commercial contracts are in place for a significant portion of the industry, the Commission should then be able to stop its regulatory processes and not be required to develop product and price determinations for anchor products. However, it is important that any commercial negotiation process should not delay the Commission's regulatory work.

What this means is that the Act must have a provision that allows the Commission to stop its regulatory process in the event that commercially negotiated contracts are in place, and allow for these to take effect. An appropriate hurdle, such as a significant percentage of the industry being covered by such contracts, would apply.

Managing Copper to Fibre Migration

Would a regulated code, applying to RSPs as well as UFB providers, be the best way to protect end-users in the transition from copper to UFB services?

If a regulated code is not your preference, what mechanism do you propose to ensure end-users are protected in the transition?

The Options Paper notes that the Government's policy is for the migration from copper to fibre to be end-user led, but that there should be some protection in place to ensure minimum standards are achieved before copper is withdrawn. The Options Paper proposes that these standards would be established as part of a regulated code, developed by the Commission.

The issues identified in the Options Paper relating to matters such as support for medical devices and ensuring that end-users are aware of the need for battery backup, are issues that the TCF is already developing Codes to manage.

The TCF Vulnerable End-User Working Party is currently working to develop an industry code, and that work is scheduled to be completed by the end of 2016. This code will address the key issues listed above and it will also help ensure that vulnerable end-users who will require priority service in the event of a fault or outage receive appropriate attention.

The withdrawal of copper services raises additional issues. The TCF has considerable experience developing codes for circumstances such as this, and is well placed to develop any necessary code and to ensure that any Code is complementary to other Codes of practice already in place. An example is the Regulated Local and Mobile Number Portability Terms Code which was developed by the industry, with some input from the Commission where the industry was unable to reach

agreement. Such a model would be appropriate for the issues which arise from the withdrawal of copper services.

Telecommunications Dispute Resolution

Please comment on the proposal to amend the Consumer Complaints Code and Scheme TOR to make wholesalers primary respondents to a customer complaint.

Please comment on the alternative option of introducing a new consumer complaints resolution scheme.

The Options Paper suggests that Chorus and the LFCs should be part of the Telecommunications Dispute Resolution Scheme (TDRS) as wholesale network operators so that they can be held directly accountable to consumers. The TCF is in the process of addressing this issue.

The TCF Working Group which is developing a TCF solution to the Land Access Dispute Resolution scheme, is considering how the two schemes could come together to provide a single point of contact for consumers and third party property owners. This package will clarify the responsibility of wholesale network operators under the TDRS, and ensure that all consumers can make a complaint to the independent TDRS scheme agent about issues of service quality by TDRS members, including services provided by wholesalers.