



Telecommunications Users Association of New Zealand Inc.

(TUANZ)

Telecommunications Act Review - Options Paper

TUANZ submission

2nd September 2016

Executive Summary

1. TUANZ is unique - **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.**
2. Our member's want to see a lift in the digital economy along with the continued development of a strong market 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. **TUANZ has the vision where New Zealand is one of the top 10 countries for business usage of ICT by 2020.**
3. TUANZ position is consistent and clear: **The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**
4. The specific issues we are looking to be addressed for users in this current review are;
 - a. **Price Certainty** – absolutely no price shock for users
 - b. **Continued Improvement** – no unhelpful constraints on enhancements to the network underpinning our digital future
 - c. **Rural Connectivity** - our goal is that the rural connectivity experience should be equivalent to that within the urban environment
 - d. **Mobile Developments** – renewing our call for a wide ranging independent review of the mobile market
 - e. **Transparency** – to help overcome the information asymmetry between the industry and users
 - f. **Consumer Disputes Process** – a strengthening of the independence of processes

- g. **End User Involvement** – ensuring users have resources available to provide credible engagement in these processes

TUANZ

- 5. The Telecommunications Users Association of New Zealand (TUANZ) has been in existence for nearly 30 years, advocating for the continued improvement of the use and supply of communications technology to all end users of such services. We have always advocated that connectivity, and fast connectivity, will enable businesses to improve productivity and to deal far more efficiently with well-connected customers. Families, wherever they live, will become far better connected. Smart young Kiwis will be much more attracted to living here rather than overseas. The world's capitals will be on our electronic doorstep, while we will become earlier adopters of leading-edge services like fibre-powered television on demand and the widespread use of cloud services for businesses such as on-demand accounting and file storage.
- 6. TUANZ is a not-for-profit membership association with over 150 members, predominantly large organisations with a strong dependency on telecommunications technology 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.
- 7. **In 2015 we re-worked our purpose: "To ensure that New Zealand can make the most of a digitally connected world."**
- 8. Our vision, which is the outworking of our purpose, provides a readily measurable target for us to aim for. It reflects our focus on businesses and their use of the technologies rather than the technologies themselves.
- 9. **We want to aim for New Zealand being in the top 10 countries for business usage by 2020, from our current position of twentieth.¹**

¹ Using the World Economic Forum Network Readiness Index as the measure

Our Principles

10. TUANZ has a stated list of key principles that guides what we say in regards to matters such as this options paper. It is pertinent to point out that our answers contained within this submission should be seen in the light of these principles.
 - **We desire to see a lift in the digital competency within the NZ economy.**
 - **We will listen and have brave face to face conversations.**
 - **We will promote fair and sustainable competition.**
 - **We will focus on outcomes.**
 - **We want our members to be successful.**

Our Paper

11. TUANZ appreciates the opportunity to provide the Government through the Ministry for Business Innovation and Employment (MBIE) with our views around the issues and questions raised in the options paper released in July of this year (2016). Our submissions are based on our values of positive leadership, credibility and collaboration and our principles as outlined above.
12. In this brief paper, we highlight the key issues that we believe are significant to our members, the end-users of the services the subject of this review. We also provide comments to the questions raised in the discussion paper. We look forward to being involved in any further discussions around the review.

Our Positions

13. TUANZ overall position is consistent and clear: The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a

critical economic enabler for the future of the NZ economy. We have repeatedly stated that New Zealand should aspire to a connectivity experience across our nation that is the same wherever you choose to work, live or play. **The specific application of this approach is found in our statement that the rural connectivity experience should be equivalent to that within the urban environment.**

14. While we generally support the Government's long term policy goal of 50 Mbps to 99% of New Zealand and 10 Mbps to the remaining 1% by 2025, our view is that it is not ambitious enough and that the current networks are more than capable to deliver these speeds now. In fact in recent months we have seen:
 - a. The Government and Vodafone agree new peak mobile speeds on the RBI wireless network of 30mbps download and 5 mbps upload speeds
 - b. UFB fibre services now available to 2.4 million people
 - c. The three LFC's announce the availability of 1Gbps residential services from October 2016.
15. We desire to continue to lift the digital competency of our economy. We need to have a national goal to maintain our communications infrastructure and to leverage the opportunities that such a world leading network provides.
16. One of the key planks of any regulatory framework must be to balance the requirement to deliver fair competition for end users, but also to ensure the investment engine is sustained.
17. New Zealand businesses increasingly compete in a global market and it should be the Government's aim that the basic telecommunications services available here should be at least competitive if not better than similar nations and key trading partners.
18. We recognise that it is difficult to legislate for "awesome" outcomes. Our view is that the Act's purpose needs to maintain its emphasis on long term benefits to end users. Our concern is to ensure that competition for the users' benefits continues to be the key element within the purpose.

Price Certainty for End users

19. We are by definition a pro-competition organisation. We also understand the notion of sustainable competition. We will always support a regulatory framework that gives the best possible outcomes to those we represent.
20. We also recognise that the last thing any users appreciate is unanticipated price shocks. A critical element for us will be to ensure that the new framework is in place in time before the current pricing arrangements expire.
21. This notion of price certainty should be an important guide to the implementation of the new framework, any transition period (if required) and part of any proposed copper to fibre migration processes.
22. If there is the possibility of a transitional arrangement, any pricing adjustments must be based on the use of independent and verifiable price indices (eg. CPI).

Continued Improvement

23. Technology continues to be subject to incremental and disruptive changes which means that users are continually working at finding new ways to use technology in new and unexpected ways. Any unhelpful constraints placed on the underlying connectivity by way of a service definition of the regulated products that are set at too low a level will dampen the ability of businesses to innovate.
24. We are already seeing the launch of Gigabit services on the UFB networks, and we are aware of testing being undertaken in labs around the world for the next major step in capability. We need to ensure that the framework delivers ongoing efficient investment in networks.
25. Our concern is that the current definitions being proposed for the anchor product set are set too low, and will act as a constraint. Our approach has been to argue for technology agnostic service descriptions that provide for a dynamic approach to the definition of such things as topline speed.

There are a number of options to achieve this, ranging from more regular reviews of the definition than the proposed 5 year period, though to a mechanism to ensure the network is always at the front edge of development.

26. There needs to be a serious review of the way the services are proposed to be defined under future legislation, and to allow for a regular process to ensure end users continue to receive the best possible service at reasonable prices. We suggest in our answers below that there should also be a test that enables the Commission to determine if the best possible product set is being provided at any time for the long-term benefit of end users.

Rural Connectivity

27. TUANZ has long been a vocal advocate for the continual improvement of rural connectivity and it remains one of our key focus areas. We will continue to encourage investment into rural connectivity while it does not meet our goal of the same experience wherever you live work or play in New Zealand.
28. Our submission, while not always mentioning rural connectivity specifically, is predicated on the idea that nothing should hinder the ongoing improvement of rural connectivity. We also look forward to the chance to make further comments when the next round of announcements around RBI2 are finally made.
29. In our response to the questions below, we do not provide a view on whether Chorus should be subject to one or two RAB's. We do realise this has implications for rural NZ where the copper network will continue to provide service, although this may be supplanted by more fixed wireless as that technology develops. We also have been in discussions with InternetNZ who have developed an alternative approach which includes one RAB but removing the rural assets to a separate and different model.

We currently have not developed a view on this, but strongly support the Government considering it as a possible alternative.

Mobile Developments

30. In our previous submission we stated that our view was that a widely ranging, independent review of the mobile market should be undertaken. This would be to establish that the market is delivering what we need to ensure the competitive market is maintained, and to make certain that the right forms of infrastructure sharing is in place for continued improvement in rural connectivity.
31. Any regulation of the mobile market needs to ensure that we continue to take advantage of the latest technologies in NZ. As we move into a world of IoT (Internet of Things), the low latency network requirements can only be met by a combination of fixed and mobile networks working seamlessly together to deliver ubiquitous connectivity. The UFB network will become critical infrastructure for mobile (if it hasn't already).

Transparency

32. TUANZ strongly supports the application of strict information disclosure rules. This enables the Commission to ascertain if competitive type outcomes are occurring in non-competitive markets. We believe that these must be in place from 2020 and apply to all providers who are subject to this regulation.
33. We also strongly support the notion of as much public disclosure of the information provided by the regulated providers through the process. This not only ensures transparency around the process, but also encourages fact based discussions over performance and the efficacy of the regulatory framework.

Consumer Dispute Process

34. The current consumer dispute process is an industry defined solution which is subject to a code that is mandatory for all members of the Telecommunications Forum (TCF). Membership of the TCF is not mandatory in New Zealand for providers of telecommunication services though. This means that not all providers are members of a disputes process - though they may choose to join the Telecommunications Disputes Resolution Service even if not members of the TCF.
35. It is generally thought that the TDRS provides a relatively successful process within the scope and processes set up under the industry defined code. It is managed by an independent body contracted by the industry (Fairway Resolution Ltd). It also has a council that is made up of both industry and consumer representatives.
36. We understand the options paper suggestion to require wholesalers to be required to be full members of the TDRS is an attempt to find a solution to the current issues around fibre installs. Our view is that wholesalers are already part of the scheme through the requirement in the code for them to provide support to their retail customers where there is an end user dispute. We suggest that the issues around fibre installs are for the industry to resolve as systemic issues, rather than through the dispute process.
37. We do however consider that the TDRS needs to be regularly monitored to ensure it meets the needs of end users.
38. To this end we propose that the following are changes that should be considered at this juncture:
 - a. The council should be strengthened with more governance powers and responsibilities delegated to it by the TCF to develop policy and be given the power to manage the contract with the service provider.

- b. The Customer Complaints Code should be a regulated code giving the Commerce Commission oversight of the process and that the scope of the service should be regularly reviewed.
- c. The scope of the TDRS could be extended to cover the aspects of service quality that may be included in any anchor product definitions.
- d. There should be a requirement for all providers of telecommunications services in New Zealand to end users to be part of an approved disputes service such as the TDRS
- e. As a minimum, there should be a requirement on members of the TDRS to advertise through their own websites and customer communications. The Broadcasting publicity notices as required by Section 6(1)(ba) of the Broadcasting Act (1989) could be used as an example to base the development of these requirements.
- f. The currently dormant section in the Telecommunications Amendment Act (No.2) 2006 (Part 4B) should remain in place. There should be a requirement for the Minister to review the industry scheme against the purpose set out in s 156U and the objectives set out in s156X on a regular basis to identify whether Part 4B should be activated.

End User Involvement

- 39. Ensuring credible and fact based submissions on important issues around communications technology is critical to robust debate on the relevant issues. There exists a strong information and resource asymmetry among the parties in these processes. Not for profit, membership-based organisations which represents the users of these services, unless they

have an independent commercial revenue stream, lack the human and financial resources to contribute fully.

40. In Australia this was recognised by the Government with the Australian Communications Consumer Action Network (ACCAN) undertaking advocacy and representation for consumers of telecommunications services. It is funded under long term contracts with the Federal Government, with performance criteria and defined deliverables.
41. We believe that this model could be implemented in a cost effective way in the New Zealand environment to ensure a strong and credible voice for end users. It may be appropriate to include this within the current Telecommunications Development Levy and would be a very small amount of the levy collected each year.

Answers to Questions in the Options Paper

Questions	TUANZ Position / Discussion
The Government will implement a utility-style regulatory framework, with a BBM pricing methodology, for fixed line services.	In our previous paper we suggested that if the BBM model was to be applied there are some significant considerations to be taken into account. These were specifically around the complexity of telecommunications services and so we still believe that the implementation of this type of model will require significant care to get it right.
1. Please comment on the set of matters that you recommend input methodologies should cover, with reference to the examples.	The options paper covers the majority of matters we believe need to be addressed. Of particular interest to our users are the proposals to not only determine a fair price, but to determine network and service quality attributes across all technologies used.
2. Should information disclosure apply even if price- quality regulation is applied to Chorus and/or LFCs at 2020?	To enable the Commission to correctly ascertain if competitive type outcomes are occurring in non-competitive markets, then an information disclosure regime must be in place from 2020. There should be a requirement for full public transparency limited only by truly commercial sensitivities as determined by the Commission.
3. Should the information disclosure requirements apply to Chorus' copper services? Should	There is no reason that the transparency rules should not apply to all networks under the regulatory framework. This is particularly important

there be any differences in the information required for the copper network?	in the area of rural networks where there will be different characteristics to the nature of services and competitive pressures.
4. Do you agree that the role of the Telecommunications Commissioner should be reviewed after 2020?	Yes – as in our previous submissions, the communications technology space is a quick moving area that requires specific dedicated and focused resource. We also support the proposal to review the role mandate, and would encourage the review to be broader than a simple binary decision on its applicability.
5. Do you agree that the number of RABs for price- quality regulation purposes should be set in legislation, or should it be a matter for the Commission?	While the Commission has considerable experience with this style of utility regulation, it will be important to provide guidance on how it should be applied in an area with quite different characteristics. Because of the differing drivers that will occur within Chorus around the different access networks over time, the Government’s policy intentions need to be clearly articulated and transparent providing guidance to the Commission in their process. Our recommendation is that the number of RABs should be set in the legislation.
6. Do you support a single RAB for copper and fibre? Please explain how your preferred approach would meet our policy objectives.	We have been unable through lack of qualified modelling resource to provide a view on this question.
7. Do you agree that decisions on the RAB valuation methodology should be made by the Commission?	It is our preference that the Commission be given clear, qualified guidance on the policy outcomes the Government expects and that the technical decisions then be left to the Commission.
8. If you think the Government should provide legislative guidance, what form of guidance do you recommend?	An example might be the Government's intention around copper to fibre migration which may have implications for how the copper network is valued – this intention should be made clear in the legislation providing the Commission with clear outcomes to drive towards.
9. Do you agree with our proposed approach to enable the Commission to determine the scope and treatment of assets in the RAB?	We agree with this approach.
10. Please comment on any matters Government should take into account when developing a definition of “fixed line access	

services”.	
11. Do you think Chorus’ assets in LFC areas should be excluded from its RAB?	We are unable to form a view on this specifically, but would note that these services provide a competitive pressure on the LFC services in the area. It is this pressure that the current proposal on backstop regulation for LFC’s relies and so any decision in this area may have ramifications on other policy decisions.
12. Do you agree the Commission should decide on the treatment of UFB financial support? Do you support the Government providing guidance? If so, please comment on the guidance or approach you recommend.	We agree that the Government should provide guidance here for investments which, while non-commercial, are providing for specific policy outcomes which we support.
13. Please comment on our proposed approach to provide guidance to the Commission that it should implement its functions in a way that does not create incentives on Chorus to keep end-users on copper services in areas where there is a choice of UFB services available.	We agree that the Government should provide guidance. It is our general view that migration to fibre is a positive step and so no perverse incentives should remain to discourage this migration.
14. Do you agree the Commission should decide on the treatment of UFB initial losses?	We agree.
15. Do you agree with our proposed approach to the treatment of networks rolled out under the Government’s UFB and RBI programmes?	We agree with the approach – it will make clear the Government’s policy objectives.
16. Do you agree with our proposed approach to the treatment of non-standard installations? What threshold do you propose for charging end-users for non-standard installations?	We agree with the proposed approach to these installations. The current approach is providing an incentive to making the decision of consumers to migrate to fibre significantly easier. Where there are non-standard installations we agree that the one-off payment approach is the best.
17. Do you agree there should be a pre-approval mechanism available to regulated suppliers for future major capital expenditure based on the Transpower model?	Due to the nature of these investments and the impact they have on the RAB, then a pre-approval mechanism should be in place. It should also have the objective to provide an efficient process to make these decisions, as it should not be seen as a

	means to stifle innovation and investment in new technologies.
18. Does the proposal to require the Commission to have regard to economic policy statements provide sufficient certainty to support any future government broadband infrastructure initiatives?	We support, as a general rule, that the Government be very clear as early as possible on its policy objectives, which would then enable the Commission to have certainty when making decisions.
19. What is your preferred option for the form of price- quality regulation – price caps, a revenue cap, or our preferred option – and why?	We are in general support on the proposed model of a revenue cap with well-defined and dynamic anchor products.
20. How could your preferred option be implemented to manage the risks identified above?	Any approach has disadvantages and it is recognised that there are issues around ensuring the anchor product set is properly defined to set the right incentives in place for providers.
21. If you prefer a price cap approach, how should the demand forecasting risk be managed?	We do not support this approach – in our previous submission we stated that the difficulty in developing robust demand forecasts in a fast moving communications technology market could make this model unworkable.
22. Is there any way to make sure that the UFB provider is not wholly insulated from competition under a revenue cap model? For example, could an asymmetric wash up be applied?	We are unable to form a view on this.
23. Are there any risks or benefits of Option 3 that we have not identified? Will this option have the incentive effects we are seeking? How could these be addressed?	The main risks we see with this proposal are that the anchor products may be defined below what the market requires, and that it may lead to perverse incentives around the copper network. Minimising and/or mitigating these risks should be considered carefully when further defining the proposed approach.
24. Do you agree the impact of competition ‘at the fringes’ should be managed? If so do you agree	We agree that the impact of competition should be managed but are unable to form a view on the proposal around ‘asymmetrical wash up’.

with our proposal for an 'asymmetrical wash up'?	
<p>25. Should the following services (as defined above) be anchor products from 2020? Why or why not?</p> <ul style="list-style-type: none"> a. voice-only service; b. 'entry-level broadband'; and c. 'basic broadband'. 	<p>We already know that over 75% of new connections to the Chorus UFB network are at 100 mbps or greater and so the definitions already appear to be out of touch with the marketplace. We agree that there needs to be a basic level service (eg. the proposed voice-only service). One alternative could be to define a non-UFB broadband service rather than "entry-level broadband". The other 'broadband' service could have a more dynamic definition as to the speed and service qualities it should reflect. There is also the alternative that the actual definition of these anchor services be left to the Commission to mandate in 2020 when the new pricing is in place - although we recognise the complexities that adds to the price setting process.</p>
26. How should anchor product prices be determined?	We support the general approach and principles as outlined in the options paper.
<p>27. Do you have any comments on the following principles?</p> <ul style="list-style-type: none"> a. end-users should not face sharp price increases; b. prices in the initial regulatory period should be set with regard to 2019 prices; and c. anchor product prices should be broadly reflective of the quality of the particular anchor product. 	We support these principles with the specific emphasis on the principle that end users should not face any price shocks at the beginning of the period, nor during the regulatory period.
28. Are there any other matters that need to be addressed regarding the pricing of technology-neutral anchor products?	We have already pointed out that we consider the provision of high quality connectivity to rural New Zealand to be of critical importance. We await any announcements on RBI2.
29. Do you think there would be any negative outcomes from the requirement to provide anchor products on a geographically	As a general principle we support geographically averaged pricing - particularly across the rural/urban boundaries. We also understand this leads to complexities and sometimes the wrong investments

<p>averaged basis? Do you think the Commerce Act provisions would be a sufficient alternative in the absence of this requirement?</p>	<p>signals including cross-subsidies. However, these cross-subsidies have existed in the market for many years and will continue. The real issue is where averaged pricing is applied to non-similar services. Rural New Zealanders have for some time argued that the services they receive are significantly inferior to those received in urban NZ at the same price. The anchor product set needs to take into consideration this concern including the minimum service standards that are required to be delivered.</p>
<p>30. Should the following services be anchor products from 2020? Why or why not?</p> <p>a. layer 1 fibre service; and</p> <p>b. any other services.</p>	<p>We have always supported the notion that networks should be able to be unbundled at the layer 1 level. This view provides the incentives to all players to make the right investment decisions. This could include the provision by the network provider of attractive services which take the place of unbundling, or lead to service providers investing in their own layer 2 equipment. We recognise there are serious technical (and thereby commercial) issues with unbundling in a GPON environment, the area is a fast moving one, and by the time this regulation comes into force there may be new and easier methods to unbinding on these types of networks (eg. Wavelength unbundling).</p> <p>Our position is that there should be the right incentives in place to ensure the best outcome for end-users. These outcomes must include the counted emergence of innovative services, at a price which is competitive. However, we also recognize that we do not want to provide incentives for overinvestment in network which can lead to higher prices.</p> <p>We support the notion at this time that layer 1 fibre services are not a regulated anchor product, but there should be a fast-track option available to the Commission to bring in a defined service if required.</p>
<p>31. What test should the Commission be required to apply to determine whether to introduce a layer 1 fibre anchor product?</p>	<p>The test should always be focused on the needs of end-users of services – if unbundling would lead to the long term benefit of end-users then it should be mandated.</p>
<p>32. Would there be any problems with a technology- specific layer 1 anchor product? Should the layer 1 anchor product include UCLL, and therefore be technology-neutral?</p>	<p>We do not have a view on this issue.</p>

<p>33. Should the layer 1 anchor product include both point- to-point and point-to-multipoint configurations? How do you recommend the Commission should calculate a cost-oriented price for the layer 1 anchor product?</p>	<p>We do not have a view on this issue.</p>
<p>34. Should the Commission have the power to require services based on other forms of unbundling (such as wavelength unbundling) to be provided?</p>	<p>As stated earlier, we believe that there will be technological advances in the way the GPON networks can be operated, and therefore the Commission should have the power to require services on other forms of unbundling as they are developed.</p>
<p>35. How should the regulatory framework provide flexibility for the Commission to update anchor products over time? What criteria should be used for the selection of anchor product specifications?</p>	<p>We recognize there is a trade-off between investment certainty and the improvement of services for end-users. We err on the side of ensuring that end-user needs are the greater driver and so there should be a test that enables the Commission to determine if the best possible product set is being provided at any time for the long term benefit of end users.</p>
<p>36. Should there be a limit on when the Commission can review and update the anchor product set? What frequency of reviews do you recommend?</p>	<p>As stated, we understand the trade-off in providing flexibility. There might be a place for a two-step process where the dynamic nature of the anchor product definition is able to deliver the required flexibility over the regulatory period with full reviews at the end of the period. If the anchor products are tightly defined then we would support a shorter review period, a possible approach could be a mid-term review at 2 ½ years through the regulatory period (we are suggesting this as an example, not as a proposal)</p>
<p>37. Should there be a limit on the number and type of anchor products, as proposed?</p>	<p>If the anchor products are dynamic and well defined then we prefer a smaller set of anchor products in principle.</p>
<p>38. Do you think that anchor products should be priced consistently across LFCs and Chorus?</p>	<p>As stated in our previous submissions, TUANZ is not keen to see regional difference in retail pricing – this is most likely achieved by consistent origin of anchor products.</p>
<p>39. Please comment on any alternative ways to achieve consistency of pricing between Chorus and LFCs.</p>	

<p>40. Should commercial services offered by UFB providers be subject to any requirements?</p>	<p>Our contention is that if the anchor products are well defined and provide for dynamic service description then any commercial services will be delivering to specific customer needs. Any implementation of requirements around commercial services should be mindful of the outcome of the Commission's current s30R review.</p>
<p>41. Do you agree with our suggested requirements, including geographic averaging (noting the question earlier on this point in relation to anchor products) and the requirement that 12 months' notice must be given of any changes to price or material non-price terms for commercial services?</p>	<p>We agree with the suggested requirements around commercial services.</p>
<p>42. What is your view on our proposal to carve the initial layer 2 anchor products out from this obligation?</p>	<p>We are not generally in favour of carve outs to the deeds of undertaking.</p>
<p>43. Do you agree the Commission should have the power to recommend changes to the form of price control (including moving to a price cap regime) if certain criteria are satisfied? If so what criteria would you propose?</p>	<p>We agree with the Commission being able to proactively investigate and make recommendations to the Government.</p>
<p>44. Should the Minister make the final decision, or should this matter be delegated entirely to the Commission?</p>	<p>Our preference is for an independent regulator being able to make the final decision on the majority of matters. However, where the Government policy is unclear or has yet to be stated, the Commission should be required to seek clarification.</p>
<p>45. Do you agree that regulated terms should be set by Commission determination?</p>	<p>We agree.</p>
<p>46. If so, do you agree that mirroring the approach to section 52P determinations in the Commerce Act is appropriate?</p>	
<p>47. Do you support implementing price regulation for Chorus at 2020, or as a backstop?</p>	<p>Our consistent view is that price regulation should be implemented and not be a backstop provision.</p>

<p>48. What benefits would a backstop approach have over a 2020 model of the type described in this paper?</p>	<p>We see no benefits to end users.</p>
<p>49. How could a backstop approach ensure that the interests of end-users are taken into account?</p>	<p>Our strong preference is for price regulation to be in place by 2020 which we believe is the best outcome for end-users.</p>
<p>50. Under a backstop approach, how do you suggest copper services be treated? Please comment on the preferred option of 'freezing' the copper price.</p>	<p>If price regulation is not in place by 2020, then we support freezing of the copper price with some mechanism for price level adjustment. This should however ensure no price shock for end users.</p>
<p>51. Under this option, how do you propose managing the risk of copper prices becoming out of date over time? Is a CPI-1% adjustment appropriate?</p>	<p>This is a workable solution to our suggestion of a price level adjustment if required.</p>
<p>52. Is there a case to implement a backstop model, with information disclosure, for LFCs?</p>	<p>While we understand the competitive pressures in place in the LFC areas, and the general desire not to place regulation where it is not necessarily required, our general position is that all players should be treated the same. Our earlier stated position is that Chorus and the LFCs should be subject to the same regulatory approach for the same access services.</p>
<p>a. To what extent do you think LFCs will be subject to competitive pressure from 2020? b. Are there any other risks or benefits to a lighter touch approach for LFCs? c. Do you expect that they will need to be subject to price-quality regulation at some point? When might this occur?</p>	<p>Competition will continue to be in place from the copper network for some time, and the increase in fixed wireless networks.</p>
<p>53. Please comment on the proposed intervention test based on the purpose statement.</p>	<p>As our position is that the same regulatory approach for all, this is not an issue we have comment on.</p>
<p>a.What are the risks and benefits?</p>	

<p>b. Would another type of test be more appropriate, such as that in section 52G of the Commerce Act? Why?</p>	
<p>54. Do you have any comments on our proposal to establish the fixed line regulatory settings within the Telecommunications Act?</p>	<p>We agree these should be placed within the Telecommunications Act.</p>
<p>55. Do you agree that it is most appropriate to set out a new purpose statement separately to the existing one, in a new Part to the Telecommunications Act?</p>	<p>We agree.</p>
<p>56. Do you agree with our proposal to largely replicate section 52A? Will this achieve the outcomes we have outlined?</p>	
<p>a. Do you agree with the terminology, including the use of “end-users”?</p>	<p>We agree.</p>
<p>b. Do you think a single purpose statement derived from section 52A will be adequate to deal with access issues associated with unbundling?</p>	
<p>c. Are any other definitions needed?</p>	
<p>57. Do you agree with our proposed process and test for introducing a new supplier to the regime (or removing a supplier from the regime)? Please provide additional comments on any other aspects you think should be considered.</p>	<p>We agree there should be a well defined and understood process.</p>
<p>58. Do you agree that the new framework should only apply to fixed line services?</p>	
<p>59. Do you agree with the proposed approach to merits</p>	<p>Our concern would be around any lengthening of an already complex process, as well as an opportunity</p>

<p>review? If not, are there any characteristics of fixed line services which mean that Part 4 merits review processes are inappropriate, or any changes are needed?</p>	<p>to game the system. We are unable to form a well considered view otherwise.</p>
<p>60. Do you agree that merits review should not be introduced for the existing regulatory framework in the Telecommunications Act?</p>	<p>We agree.</p>
<p>61. Do you agree that mandatory claw-backs should be introduced for utility-style regulation of fixed line services under the Telecommunications Act?</p>	
<p>62. In your view, do our proposals around smoothing the revenue cap and minimising price volatility for anchor products provide enough protection in reducing the risk of price and/or revenue shocks?</p>	<p>We strongly believe that end-users should not be subject to any significant price fluctuations and bill shock and therefore agree with the approach.</p>
<p>63. Do you agree that a transitional arrangement should be in place in case the new framework is not able to be implemented with enough notice before 2020?</p>	<p>We agree.</p>
<p>64. Do you agree with the proposed model of a temporary freeze? Are there any other risks or benefits of this approach?</p>	
<p>65. Please comment on any other measures you recommend to address mobile infrastructure sharing (outside of changes to Schedule 3, which are discussed in the next chapter).</p>	<p>We contend that while the mobile market appears to be working reasonably well, we do have concerns that mobile prices in New Zealand have remained higher than our international peers.</p> <p>For the future development of future networks, the removal of the requirement to build next generation mobile networks throughout the country and to ensure that access to regulated roaming for geographic coverage are two examples of changes that may be required to encourage mobile competition and potential new entrants.</p>

	<p>We therefore support the option papers conclusion that an investigation into making roaming a specified service is required, and continue to advocate for a more widely ranging review (see next question)</p>
<p>66. Do you agree with our views on MVNOs and tools to manage competition in retail markets?</p>	<p>In our previous submission we stated that international research seems to show that at least four significant mobile operators leads to real change. We also stated that we remain to be convinced that the MVNO market in New Zealand is operating successfully. We have seen the introduction of new players into this space (including for example The Warehouse) and are interested to see if more might happen here. It remains our view that a more widely ranging review of the mobile market by the independent Commerce Commission should be undertaken sometime. Any legislative change should enable the efficient implementation of changes that might result from the review.</p> <p>We continue to stress that the development of the right forms of infrastructure sharing (whether that is roaming, or other forms as required) are critical to the development of mobile services in rural New Zealand. Our overriding goal of having urban like experience in rural New Zealand requires effective and efficient sharing of assets to push competitive coverage out from urban areas far and wide.</p> <p>We also addressed in our previous submissions the issues of allocation of scarce spectrum along with spectrum sharing.</p>
<p>67. 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?</p>	<p>If a code is to be in place to oversee the transition, then it is critical that it be under the purview of the Commerce Commission as a regulated code.</p>
<p>68. If a regulated code is not your preference, what mechanism do you propose to ensure end-users are protected in the transition?</p>	
<p>69. Do you agree with the recommendations to make the Schedule 3 process more efficient?</p>	<p>We continue to support the Commission having the flexibility but are strongly in favour of moving away from the current two stage pricing process.</p>

<p>70. Please comment on whether any other aspects of the Schedule 3 process could be removed or shortened further, or on any other ways to make the process more efficient and timely.</p>	
<p>71. Do you recommend any further changes in order to mitigate any potential harm being done in the market while a Schedule 3 process is underway?</p>	
<p>72. Should there be criteria specified for the Commission's decision whether to recommend a one- or two-stage pricing process for a potentially regulated service?</p>	
<p>73. Do you agree that the current regulatory framework has sufficient safeguards in place to manage any net neutrality issues that may arise, in light of recent market developments?</p>	<p>We agree at this point.</p>
<p>74. Please comment on the proposal to amend the Consumer Complaints Code and Scheme TOR to make wholesalers primary respondents to a customer complaint.</p>	<p>Please refer to our comments on this matter in the General Approach section of this submission.</p>
<p>75. Please comment on the alternative option of introducing a new consumer complaints resolution scheme.</p>	<p>Please refer to our comments on this matter in the General Approach section of this submission.</p>
<p>76. Are there any other areas of the Telecommunications Act that you consider need to be updated or removed to be fit for purpose?</p>	

Concluding comments

42. TUANZ welcomes the opportunity to provide the Government with this submission in regards to the questions raised in the recent Options Paper around the review of the Telecommunications Act 2001. This paper provides a summary of feedback from our organisation that represents actual users of telecommunications. We have attempted to provide a succinct and clear enunciation of the views of our members.
43. We look forward to being part of the discussion going forward.

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