

Submission to the Telecommunications Carriers Forum

In the matter of

Report on the Telecommunication Services Obligation for Local Service

From *Local Government New Zealand*

22 April 2008

Comment on the Report Prepared by Telecommunications Carriers Forum (TCF) Working Party on Telecommunications Service Obligations (TSO) for Local Service

Local Government New Zealand submitted an extensive submission to the Ministry of Economic Development on its views of how the current Telecommunications Service Obligations (TSO) Framework should be set up and the principles that should underpin the service. We have included this submission as an appendix to this submission.

Local Government New Zealand thanks Telecommunications Carriers Forum (TCF) for the opportunity to comment on the Report on the Telecommunications Service Obligations (TSO) for Local Service. As we have previously put in a submission to the Ministry on this issue highlighting the position of our members, we have not consulted widely with our members in preparing this submission as it was largely felt that the views expressed by the TCF, in its report, were not out of sync with the views our members expressed in the initial submission. The principles proposed for the policy framework are not inconsistent with the views expressed by attendees at the Rural Broadband workshop that we jointly hosted with Internet NZ in September 2007.

We support the public policy objectives outlined in the report. As the leaders of the communities our members need to ensure that the principle of equitable access to communication for all citizens is upheld as a basic right. What is critical to our members is how they will ensure that their communities particularly those in the commercially non viable areas obtain effective connectivity. Such connectivity should be of sufficient bandwidth to enable effective voice and data communication. Therefore we are in agreement with your report which notes that the “overriding policy objective is to achieve social inclusion at lowest cost,” using a technology neutral solution.

Of the three options presented, i.e.:

- a. the amended status quo
- b. the contestable provision for service
- c. the staged migration to a contestable approach.

We are mostly in favour of option two, but in reality we appreciate that given the current environment and the challenges of moving directly to a fully contestable option we would also support option three. In our submission to the Ministry we noted the following on the contestability of a TSO Service:

- That independent regional assessments be undertaken to determine the extent to which rural customers are loss making and to confirm the TSO losses.
- That the provision of TSO services be made contestable allowing other providers to tender for the provision of services to the perceived loss making customers.
- TSO loss to be tendered and contracted for a period of 0-5 year phase (or an appropriate term) and that the TSO standards be specified and a forward investment plan agreed.

Local Government New Zealand would be interested in providing comment on the Industry Code of Practice for Access to Emergency Service, that the TCF will be developing. Emergency Service is an area of critical concern to our members and as such we are interested in ensuring that any code developed gives New Zealand communities the assurance that in the case of an emergency they will have access to the right level of communication services both fixed and wireless that will disseminate help to them in the most expedient manner.

Appendix 1: Local Government New Zealand Submission to MED TSO Discussion Document

Submission to the Ministry of Economic Development

In the matter of

Discussion Document on Telecommunications Service Obligations Regulatory Framework

From *Local Government New Zealand*

15 October 2007

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Executive Summary

Access to communication is a basic right that should be enjoyed by ALL New Zealanders regardless of where they choose to live. Communication technology is not the key issue as this will date, what is critical is the principle of how to best obtain effective connectivity for citizens who live in sparsely populated communities. Such connectivity should be of sufficient bandwidth to enable effective voice and data communication.

The current TSO Framework was set up with the objective *“to facilitate the supply of certain telecommunication services to groups of end users within New Zealand to whom those telecommunication services may not otherwise be supplied on a commercial basis or at a price that is considered by the Minister to be affordable.”*

New Zealand is moving towards a Next Generation Network (NGN) broadband enabled environment. The telecommunications services landscape has significantly changed and the TSO Framework in its current form falls short of meeting the expectations of New Zealanders both now and into the future.

We are living in an age where voice is no longer the primary mode of communication. Access to the internet and broadband services is just as critical for New Zealanders as access to telephony services. Equally access speed is critical to lifting the productivity of communities by improving response times, business process and enabling New Zealanders to participate in the global economy.

Local Government New Zealand is of the view that government does have a critical role to play in ensuring that ALL New Zealanders have access to basic telecommunications services including broadband as part of its social obligation to all citizens. The mechanism to ensure delivery of this social obligation should take account of the following principles:

- **Contestability:** The mechanism for ensuring the provision of services should be open to any provider that can demonstrate an ability to provide the required level of service.
- **Regional Focused:** The solution should be provided on a regional basis. The topography of New Zealand makes provision of ubiquitous communication services challenging. Regionalising the service provision will ensure that the solutions promoted are more tailored and will allow a wider range of service providers thereby improving the level of service and the customer choice.
- **Investment:** The service providers should be incentivised to make minimum levels of investment in the rural network. Historically this is an area in which the current TSO Framework has failed. Underinvestment in rural network is prevalent. Any new mechanism should ensure that a subsidy or industry levy for the commercially non viable has an investment component that is measurable and transparent. This would guard against a rural / urban divide in the provision of a basic level of telecommunication service.

We note and agree with the Minister in his foreword that universal access to telecommunications services for all New Zealanders is critical for enabling economic growth and is instrumental in the development of a knowledge based economy. This connectivity also provides an essential social link including access to emergency services.

In considering the discussion document it was clear that there is sufficient uncertainty in relation to some aspects that it is difficult to comment on solutions for government to consider. These are:

- **The problem definition:** It is unclear how big the problem of the commercially non viable areas outside of the current TSO geographic boundaries is. Currently we are aware that there are remote households and small communities that have no telecommunications service and require basic connectivity. There is very little data that we are aware of that clearly quantifies all voice and broadband services available to all parts of New Zealand. We are aware that State Services Commission is working on the Broadband Map and that industry is being encouraged to contribute information on their networks. This should go some way to better defining the areas that currently have substandard or no connectivity.

Definition of “basic telecommunication service”: There needs to be agreement as to what constitutes a basic telecommunication service in today’s environment. *Local Government New Zealand* agrees with the submissions made by most of our members which state that broadband capability is now a basic requirement for regional economic growth and is therefore an essential service. It should be part of the package of basic telecommunications services. The definition should not be pegged to a particular technology or speed requirement but rather focused on a minimum bandwidth which should be “fit for purpose” while taking into account the needs of the community. The definition should aim for equality and fairness of access for both the urban and the rural areas of New Zealand. The definition should be supportive of the aspirations for connectivity set in the New Zealand Digital Strategy.

There are citizens that currently have inadequate non voice (digital) services due to lack of effective data communication capability not covered under the current TSO Framework. Under the existing TSO framework there is already a provision for access to the internet. The current framework specifies dial up internet at speeds of 14.4kb/s. This in our view is inadequate as it falls short of the current Digital Strategy targets

- **What are the international alternatives to a TSO?,** What are other governments and jurisdictions doing to meet their social obligations for providing a basic level of telecommunications service and how does this relate to what we are trying to achieve in New Zealand?

The local government sector represents the interest of local authorities and the communities they represent. Local councillors are the leaders of their communities and under the Local Government Act 2002 are responsible for promoting the social, economic, cultural and environmental well-being. The area of telecommunication services, including broadband, has up to now (following the privatisation of Telecom) largely been the domain of the private sector. We are now living in an information age and in order for communities to participate in the global market place access to world class telecommunications infrastructure is essential. Councils throughout New Zealand are developing *“Community Digital Strategies.”* These strategies see councils positioning themselves as champions for broadband to enable economic growth for their communities. Councils see broadband as an essential service and are working with central government and industry to accelerate the deployment of broadband infrastructure throughout local communities in New Zealand.

Introduction

1. *Local Government New Zealand* thanks the Ministry of Economic Development for the opportunity to comment on the Telecommunications Service Obligations (TSO) Regulatory Framework discussion document. This submission contains the consensus view of *Local Government New Zealand* and its rural sector members who make up the bulk of the commercially non viable areas covered by the current TSO framework.

Comment on the MED process for the TSO Review

2. *Local Government New Zealand* notes that this discussion document comes amid a wide range of changes in the regulatory environment for the telecommunications industry. Given the number of fundamental elements of the telecommunications industry that are under review we are concerned at the timing of the release of the TSO discussion document.
3. We are aware that MED is working on a refresh of the Digital Strategy and a Rural Broadband Strategy for New Zealand. In our view these documents are critical for setting the vision of New Zealand Inc. These strategies would in our view have provided the backdrop for having the conversation of whether the TSO Framework is the right model going forward, and if not, what is?
4. Without this context it is very difficult to comment on the details of a TSO framework or an alternative while the overarching strategies are being reviewed.
5. *Local Government New Zealand* makes this submission on behalf of the National Council, representing the 73 territorial authorities, and 12 regional councils of New Zealand.

Process to prepare this Local Government submission

6. *Local Government New Zealand* in conjunction with Internet NZ hosted a workshop of key stakeholders in Wellington on 18th September 2007. The purpose of this workshop was to gather together the local government sector and other key stakeholders such as TUANZ, Federated Farmers, Rural Women and regional network operators (servicing rural areas) to explore issues and options in relation to the discussion document. Officers from the Ministry and industry representatives were also invited to the workshop to clarify points on the discussion document and otherwise inform the debate.
7. On this basis *Local Government New Zealand* prepared a draft of its submission that was sent to the local government sector for feedback. Feedback received has been incorporated into the submission.
8. A group of Council and Council Controlled Organisation experts was set up to peer review the draft submission.

9. The final submission was endorsed under delegated authority by:

- Basil Morrison, as the President of the National Council.
- Kerry Prendergast, as the Vice President of the National Council.
- Mary Bourke as the Chairperson for the LGNZ ICT Advisory Group and National Council Portfolio holder for

Section II

Detailed Responses to the Discussion Document Questions:

TSO Framework

3a **How important is the KSO/TSO framework as a component of the overall regulatory regime of New Zealand for telecommunications services?**

In order for government to fulfil its social obligations of ensuring equitable access to basic telecommunications services for all its citizens there needs to be a regulated mechanism by which it can achieve this objective. In principle the TSO Framework was designed to facilitate a service that guaranteed supply and price certainty of basic telephony services in commercially non viable areas of New Zealand. In this context having a TSO Framework or an equivalent regulatory mechanism to achieve this objective is an part of the regulatory regime of the telecommunications services for New Zealand.

3b **How effective has the TSO framework been in achieving the government's telecommunications objective of ensuring the delivery of cost efficient, timely, and innovative telecommunications services on an ongoing, fair and equitable basis to all existing and potential users?**

The TSO Framework however has a number of failings which make it an inappropriate mechanism in its current state to meet the requirement of the commercially non viable areas of New Zealand.

These are:

- TSO only covers voice and does not cover data transmission.
- The current framework is not administered in a manner that is immediately transparent. There are uncertainties as to how an area is classified as commercially non viable.
- Technological advancements are bringing down the costs and nature of service delivery and yet the framework permits price increases based on the Consumer Price Index (CPI).
- There is no mechanism for ensuring and future proofing investment into the rural network.
- There is currently only one provider so the scope for introducing alternative technologies is limited.
- It does not cover new connections or extensions of the network as these requirements occur.

3c **Would other policy mechanisms be more appropriate than TSO instruments to achieving the government's telecommunications objective going forward?**

3d **What are the strengths and weaknesses of the TSO framework?**

Purpose and Market Impact of the Local Service TSO

- 4a **How does the Local Service TSO contribute to advancing the interests of telecommunications users?**
- 4b **Would the universal availability and affordability of local residential telephone service for households be better achieved another way?**
- 4c **What should be the focus of the Local Service TSO going forward?**

The Local TSO in so far as guaranteeing the availability, quality, and affordability of local telephone services within the geographic boundaries of the TSO has ensured that those who would not have otherwise had a telephony service received one. The issue going forward is that the TSO framework does not provide for the consumers broadband access and performance requirements. The framework should focus on innovative solutions for the commercially non viable areas especially in relation to broadband services.

A regional based solution should be the focus of any future mechanism. The challenge of the New Zealand landscape renders itself to having a framework that promotes localised/regionalised solutions. A one size fits all approach will not work and will see New Zealand fall further behind the rest of the world in ensuring ubiquitous access to digital services.

There are a range of technologies e.g wireless, wimax and satellite which offer communities a much broader range of options for voice and data communications. Any new mechanism needs to encourage the use of these technologies in providing solutions for the commercially non viable areas.

Availability of Service

- 5a **Does the Local Service TSO effectively address gaps in the commercial market for the availability of telephone service?**
- 5b **Should the Local Service TSO requirements for service availability be retained?**
- 5c **Should geographic coverage requirements for the supply of TSO local service be extended to cover areas currently outside the TSO and why?**

Service Performance

- 5d **Should the existing service performance measures be expanded, including down to geographic regional level, to better ensure reliability of telephone service? If so, what measures are recommended and why?**

Local Government New Zealand is supportive of having performance measures on a geographical regional area basis. Customers need a way of ensuring that they are receiving an equitable service in relation to the rest of the country and this mechanism will provide a basis for such benchmarking to occur. The performance measures should be part of the contract with the service provider and they should form an integral part of the contractual obligations for a modified Local Service TSO or alternative mechanism for guaranteeing service. There should be enforceable

penalties for breaching service level agreements in a way that will insure that investment levels are maintained.

- 5e **Are there service measures which would better represent the aspects of service performance which are of most importance to users?**
- 5f **Should penalty performance rebates apply for non-compliance by the Local Service TSO Provider?**
- 5g **Should there be reporting on the quality and capacity of network capabilities for supplying TSO local service?**

Service Reporting

- 5h **Should information about TSO local telephone service supplied in commercially non-viable areas be made publicly available by the TSO provider as part of its TSO requirements? If so, why?**

In order to promote transparency and accountability Local TSO providers under a modified Local TSO Framework should be required to publicly disclose evidence of compliance with the service measures. To promote increased competition and better value for money for the recipients and the taxpayers there is a need to ensure that the agreed service levels for ensuring access for Local Services are being met by the current service provider.

Convergence and Transitioning of NGN

- 5i **Should the gateway devices installed in customer's homes to support the supply of telephone service be required to have battery back-up? If so, why, and should there be a requirement that battery back-up last for a specified period?**

Government's social obligations extend to ensuring that services are available as "a principle" in all situations and where a backup to power is available (within reason) the service provider should be obliged to provide it. It is not safe to assume that people within mobile cellular coverage areas will necessarily have access to a mobile phone. Therefore a responsible service provider should ensure that there is a capability installed in critical Customer Premise Equipment for a battery that can function to provide power for at least two hours after power is disconnected. In our view this is not an unreasonable requirement.

- 5j **Should a requirement for battery back-up only apply for residential customers living in areas outside mobile cellular phone coverage?**
- 5k **Should battery back-up requirements be equally applicable across all providers (TSO and non-TSO) of telephone access services and if so, should any requirements be prescribed by regulation**
- 5l **Should dial-up internet access be discontinued for TSO local service if a bit stream equivalent (i.e. NGN version) is supplied as a replacement?**

In our view dial up would be insufficient to meet the needs of New Zealanders going forward and should not be a preferred option.

Compensating for the Local Service TSO Provider

6a Should the status quo prevail for setting the TSO charge compensating the Local Service TSO Provider

Outlined below is the *Local Government New Zealand* proposal of how a modified TSO Framework could function. This proposal was developed by Venture Southland and was endorsed by the members that attended the rural broadband workshop as being a good “best practice model” on which to construct a modified TSO Framework for the future.

The objective of this proposal is to have a TSO framework that:

- Stimulates rural telecommunications investment.
 - Improve the standards of rural telephone and internet service.
 - Ensure that the TSO is not seen as a ‘hand out’ of, but an investment towards improving the lot of rural customers.
- (1) That the standards required under the Terms of the TSO are updated to meet a 2007 definition of a “basic telecommunication service”.
 - (2) That independent regional assessment be undertaken to determine the extent to which rural customers are loss making and to confirm TSO losses.
 - (3) That the provision of TSO services be made contestable allowing other service providers to tender for the provision of services to the perceived loss making customers.
 - (4) TSO loss to be tendered and contracted for a period of 0-5 year phase one or appropriate term and that TSO standards be specified and a forward investment plan agreed.
 - (5) If incumbent is not successful, that interim access be provided to these customers via the copper network.
 - (6) That the contracted TSO service provider be encouraged to invest in new infrastructure to service rural customers to meet the specified standard i.e carrier grade telephony and specified standard of broadband service.
 - (7) If service provision is met the TSO obligations be extended for a further 5 years or as necessary subject to negotiated terms surrounding standard service and/or reinvestment terms.

Eligibility for Service

- 7a **Should eligibility for TSO local telephone service be confined to purely residential use?**
- 7b **What are the merits of establishing a 'hybrid telephone service option' for home business use where a business is co-sited with a household in residential premises?**
- 7c **Should the incremental revenue for such a new TSO local service be channelled into investment in rural network infrastructure?**
- 7d **What are the merits of applying such an option to all home business premises as opposed to confining the application to only those home business premises located in a rural area as defined by Statistics New Zealand rural definition?**

Price Cap

- 7e **Should the CPI price cap be retained for commercially non-viable areas?**
- 7f **Should the CPI price cap be retained for commercially viable areas where there is not yet full and effective competition?**
- 7g **Should the price cap for commercially viable areas be removed where there is full competition?**

A price cap in areas where there is full competition should be removed. In areas where the service being offered is not commercially viable then there should be a level of price capping retained to ensure that the customers are not paying an excess premium for basic services.

- 7h **Should the retail charge for residential local telephone service continue to be capped through the Local service TSO deed?**
- 7i **Should retail prices be controlled outside the TSO framework through regulations made under the Telecommunication Act?**
- 7j **Should another policy mechanism be used to cap the price of residential telephone service?**
- 7k **Do you agree with the factors listed for setting the retail price cap for local service? What is missing? What weight should be given to each?**

Free Local Calling

- 7l **Does the option of free local calling for residential customers present difficulties for development and growth of the broadband market?**

Price Rebalancing, De-averaging and Wholesale Services.

- 7n **Should prices for local telephone service supplied in rural areas be rebalanced (to align prices closer to cost) more aggressively than the rate of CPI change?**

Technological developments in the area of telecommunications are bringing the cost of service provision down. Using the Consumer Price index as a measure for services where the costs are declining seems inappropriate. There is a need to look at an alternative to CPI as a benchmark for price setting for the TSO service. There should be an initial price cap set on essential services which provides for affordability of services in rural non-commercial areas. The level of this cap will then have an effect on "TSO" funding required to support the cost of maintaining the network infrastructure. A balance must be struck between these two variables (price cap and available funding through a "TSO")

- 7o **How should any detrimental impact on the consumer affordability of local service due to price de-averaging be addressed?**

The issue of de-averaging is in our view quite complex. De-averaging is very difficult to do and if done incorrectly it can minimise the ability to compete if the customer base is incorrectly defined. If the customer base wrongly defined it could create unwanted market distortions. LLU investment in rural exchanges is limited and with de-averaging there is the risk that rural residents could be paying up to 50% more for the same service than their urban counterparts. Clearly investment will be focused on the densely populated areas where higher and faster rates of return on equity are enjoyed. Politically this isn't acceptable to the rural residents of New Zealand and the Commerce Commission's recent determination on this matter seems to contradict the principles of what the TSO is trying to achieve. The imposition of a de-averaging policy will simply discourage suppliers (in a competitive environment) from servicing low margin areas. The only solution therefore is to impose a levy on suppliers servicing the commercially viable customers.

Upfront Subscription Charges

- 7p **Should the upfront charges for establishing telephone access connections be covered by the TSO requirements?**

The issue of upfront subscription charges in our view should be part of the modified TSO framework going forward. This takes away the risk of double cost recovery and adds more transparency to the charging process for new line connections in TSO covered areas.

TSO Provider Gatekeeper Role

- 8a Should the gatekeeper role be performed by a government or non-government organisation and why?**

This is a level of detail that needs to be worked out once some of the high level objectives of what a TSO /modified TSO is trying to achieve.

- 8b Should the gatekeeper role continue to be performed under the Local Service TSO or be a new TSO instrument?**

Emergency Call Information

- 8c Should all providers of telephone service in New Zealand be required to establish and maintain capability to identify caller location for emergency calls sourced by their subscribers?**

It is not practical to enforce this rule with the current diversity of voice calling technology especially with the proliferation of mobile and wireless technology and VOIP going through private PSTN gateways. This facility should be seen now as a competitive service differentiation offering from suppliers and customers should be educated on the benefits of having this facility.

The current obligations on emergency services apply only to residential fixed lines and apply only to Telecom. Under a modified TSO Frameworks *Local Government New Zealand* would suggest that the obligation to provide emergency service calling be extended to incorporate all fixed line (either cable or fixed wireless) network providers and that the capability for identifying caller location is also provided. .

In an emergency situation we are of the view that all should be done to locate a person accurately in a timely manner. Caller identification assists with this and as such should be a feature that is provided by all telephone services for emergency situations. In an emergency situation a caller may not always be coherent and in some cases may not have the ability to speak therefore the ability of the emergency service unit to quickly identify the location of the individual can be critical. The service needs to ensure that it caters to those that are unable to help themselves in an emergency situation. This should be a standard that is required of all telephone providers being subsidised to provide emergency services calls

- 8d How should requirements for call information be phased in? Should they apply equally to both legacy telephone networks and next generation telephone networks?**

In an ideal world the requirements for call information should apply equally to both legacy telephone networks and next generation telephone networks. The reality of this may mean that the legacy systems are too costly to have upgraded and it may be more cost effective to have a phased approach where only the NGN networks are upgraded. As the majority of the country is still covered by the legacy system this may not be acceptable to all communities and the industry

and the affected communities will have to develop compromises. This can form part of the industry code of practice that we are recommending get developed by the TCF in conjunction with MED.

- 8e **Should the cost for establishing and maintaining call information capability for public telephone networks in New Zealand be borne by the carriers operating those networks?**
- 8f **How should minimum standards be set for the supply of call information? By invoking reserve regulation making powers and/or by an industry code of practice? Availability of Emergency Call Service.**

As a social service the availability of the emergency call service is critical. Regulation should set a minimum standard for the supply of call information. The TCF should work with MED to develop this minimum standard. The TCF should also develop an industry code of practice for servicing emergency calls. The standards, as a minimum, should include the need for location identification of the caller.

Lifeline Access

- 8j **Should access lines be kept in an active state after service is relinquished to enable lifeline calls to be made?**

The political, social, and moral issues of people not being able to access a lifeline service due to failure to pay a telephone bill will quickly escalate into heated public debate. We are of the view that lifeline access should be kept active after the service has been relinquished. The cost of ensuring lifeline access can be addressed as part of the industry code of practice which we are recommending gets developed by the TCF in conjunction with MED.

Availability and Adoption of Rural Broadband

- 9a **Taking into account likely broadband user requirements in 3-5 years time, what do you consider will be the key broadband applications (e.g. email, web browsing etc) for businesses and households?**

The availability of broadband applications is irrelevant as these are evolving so rapidly one has no idea what will be available in a year let alone five years time. Instead the focus should be on collaboration and communication. The provision of communication services is an essential service. Following this argument New Zealand has minimum standards for drinking water quality and other basic infrastructures, so is the same needed for telecommunications services?

Such a definition should not be pegged to a particular technology or speed requirement but rather focused on a minimum bandwidth which should be "fit for purpose" while taking into account the needs of the community. The definition should aim for equality and fairness of access for both the urban and the rural areas of New Zealand. Using an international standard as a benchmark could be acceptable for speed but again this needs to bear in mind the unique geography of New Zealand and the remoteness of some of the communities that at present are not connected and who would be happy with the current dial up speeds.

It is difficult to predict how the digital natives will use technology to support education, recreation, and business opportunities. Broadband access will become increasingly important in people staying connected and will be most critical in the rural and remote areas.

9b To what extent do you consider that the market will meet the broadband needs of rural users (including availability and affordability) in the next five years?

It is generally accepted that in the rural areas the business case for the private sector to provide a solution is weak and in some cases nonexistent. Project PROBE is an example of government intervention to get service provision to non commercially viable areas. Government has a role to play in stimulating investment in the remote and underserved communities of New Zealand.

The Regions¹ (yet to be defined) have a vital role to play in ensuring that they work together and take responsibility for getting services out to their communities. Regions are best positioned to understand the needs of their communities. At this point the issue for the remote and underserved communities is about access to what people in urban areas may regard as basic services in relation to telecommunications. The issue for these areas is not about national ubiquity and the slowest denominator it is about having a connection that works.

9c Do you consider there is a case for subsidy mechanisms to fund upgrading of rural broadband infrastructure, and if so, what mechanisms should or should not be considered, and why?

Project PROBE and more recently the Broadband Challenge [remote and underserved] have gone a long way in stimulating service delivery in rural and remote areas of New Zealand. Local solutions for local issues is the mantra on which local government operates. The connectivity solutions for remote and underserved communities are best addressed at a regional/local level rather than a national level. Local communities need community champions to work with the private sector and central and local government to come up with solutions that address that communities connectivity issues that are relevant for today as well as tomorrow's users.

While we are advocating for community based solutions we do not want to lose sight of the bigger picture. Communities do require an overriding national framework to guide them or else as a nation we can run the risk of having a hotchpotch of arrangements with different ownership arrangements and technical structures that fail to provide an integrated national solution.

Local Government New Zealand strongly supports a contestable TSO for Local Service. We have included as part of this submission a proposal of how a modified regionally based TSO Framework could look (refer to the answers to section 6 questions). This model was developed by Venture Southland and is supported by our members as a model that would see competition for service provision on a regional basis. Local Government New Zealand however recognises that there are a number of significant issues which will need to be resolved in order to invoke such a model - not least of all the possible creation of yet more non profitable infrastructure by a competitor to the incumbent. The TSO framework should be used as an investment incentive to

¹ The Regional boundaries in this context are different from the regional boundaries defined in the Local Government Act 2002.

get providers to invest in the rural network. In the framework that we are proposing in this submission the loss of service provision should be made open to the market and let other providers decide if they can provide a solution and if they can, then they should be entitled to the TSO subsidy.

Regardless of the model adopted the obligations levied on the TSO provider need to focus on their ability to deliver the service required and their ability to reinvest in the network to ensure that it is future proofed and that there is added value of service to the community. Unbundling is a cherry picking model and presently there is no model that is future proofing the investment in the rural network of New Zealand. It is our view that the contract should be network neutral and should be focused on service delivery based on customer need and an agreed minimum level of service. The customers should be confident that the TSO provider will be able to supply a reliable service in a cost effective manner.

At present the alternative solutions like satellite and wireless do offer the a level of service to remote areas.. They are appropriate technologies in some instances but they are not ideal as a national solution and they do not meet the standard TSO definition of a basic and essential service. Although satellite offers voice there are problems with the double hop (for some calls) and this level of service would be below what New Zealanders would view as an acceptable level of service.

At a national level the decision as to whether or not broadband is an essential service been made? This question was posed in the workshop and initially the consensus was divided. Overall the group generally agreed that while in some areas it is essential it was too soon to say that conclusively from a national perspective. Access to telephone services was viewed by the majority as an essential service. There is also a view that access to emails is as essential as access to the voice systems. Therefore it follows that internet access is already regarded as an essential service though the debate on broadband is still pending at a national level. In our view broadband access is critical for economic, social, cultural and environmental wellbeing of New Zealand communities.

TSO Role in Improving Broadband Connectively

9d What role do you think the TSO framework should have in accelerating the uptake of broadband access for New Zealand homes?

The case for a Broadband USO has some merits but we feel it is more appropriate to discuss this topic in the context of the Rural Broadband Strategy for New Zealand.

We would prefer to do additional analysis on this matter and reserve our comments for a later discussion.

The modified TSO provision offers a possible solution and could be a basis for looking at whether:

- There is a case for having a standalone USO for broadband or something in between. The merits of the proposal need to take into account the total cost of running a dual system for telephone services and for broadband services.
- The international trends in TSO Frameworks
- The cost /benefits of administration of for example 12 regional bids for a local TSO vs 1 National Bid this would need to be worked out in discussions with the Commerce Commission who would be the administrators.
- The risk of having regional monopolies emerging.

Responsibility for TSO Change Determination

This section was outside the scope of *Local Government New Zealand* expertise to respond.

Conclusion

Local Government New Zealand supports in principle the merits of having a TSO as part of the regulatory framework. At the same time we acknowledge that the TSO is a legacy system born out of the need to address the social obligations of telecommunications when Telecom was privatised. In this context *Local Government New Zealand* is of the view that the solution lies in correctly understanding the problem that we are trying to resolve and then developing an instrument that is independent of specific technology but supports the citizen's right to access basic telecommunication services irrespective of their place of residence or work.

Politically the TSO/ KSO have been part of the regulatory machinery since the privatisation of Telecom over 20 years ago. There have been some staggering technological advancements and perception of what makes up a basic telecommunications service has significantly evolved. The proposal of what a TSO Framework could look like has been presented to open the discussion on what New Zealand communities need going forward.

The main recommendations from our submission are that the TSO Framework needs to be contestable and managed on a regional basis² or we end up with the status quo of one supplier being able to service a national TSO. A modified TSO would need to ensure that there is an adequate level of investment in the rural network both now and into the future and that the investment is sustainable.

In our view there is a need to examine whether going forward a TSO is the right mechanism for achieving the investment level required in rural New Zealand. The alternative and the implications from a policy perspective need to be tested against the realities and complexities of implementation. It is clear that the current system is not working but the alternative produced needs to be focused on

² A definition of region that is appropriate would need to be coined. The current boundaries of the Local Government Act 2002 may not in all instances be the appropriate regional boundaries to use.

improving things on the ground and stimulating real investment in the rural network both now and into the future.