

New Zealand Police

Response to the

Telecommunications Carriers' Forum
Report on the Telecommunications
Service Obligation for Local Service
27 March 2008

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A. EXECUTIVE SUMMARY

1 The Telecommunications Carriers' Forum (TCF) is a New Zealand telecommunications industry body that works collaboratively to develop key industry standards and codes of practice that underpin the digital economy.

*NZ Police Comment:
Read and understand TCF position.*

2 The Government is currently reviewing the Local Residential Telephone Service Telecommunications Service Obligation (TSO). The existing TSO agreement between the Crown and Telecom requires that Telecom delivers basic residential telecommunications services under a specific set of conditions. This includes free local calling for residential customers. The telecommunications industry funds the cost for Telecom to provide this service to commercially non-viable customers.

*NZ Police Comment:
Read and understand TCF position.*

3 The TCF recognises the importance of keeping people connected and supports the objectives of the current TSO – to ensure the widespread coverage of an affordable residential telephone service for all New Zealanders. However, we feel that the current TSO is no longer the most appropriate mechanism to deliver affordable and effective telecommunications services.

*NZ Police Comment:
Read and understood.*

4 In addition, competition is increasingly delivering the objectives of the TSO in New Zealand. Competition has seen new players arrive with new technology and more options for customers.

*NZ Police Comment:
Read and understand TCF position. However Police are concerned that with the introduction of new technologies there will be customers who are uneconomic to provide these technologies to. These customers may then suffer subsequent service delivery degradation as current technologies are withdrawn.*

Police accept that the introduction of new technologies will increase over time and look forward to these technologies providing functionality critical to the provision of 'world class' emergency call and response services.

5 The key objective of the TSO is social inclusion. It ensures that people living in rural and remote areas are guaranteed a service that, in the absence of the TSO, may be unaffordable for the customer because of the higher costs of serving them. The over-riding policy objective is to encourage social inclusion at lowest cost to the market and consumers.

*NZ Police Comment:
Read and understand TCF position.*

6 Investment in rural broadband is often discussed alongside current TSO obligations. The TCF considers that investment in rural broadband will occur through competition between different technologies. However, to avoid damaging the developing multi platform broadband market, and to tap into the benefits of competition in that market, we need to reshape the TSO arrangements.

*NZ Police Comment:
Read and understand TCF position.*

7 The general consensus within the telecommunications industry is that the TSO in its current form is not an appropriate mechanism to deliver on the Government's policy. However, rather than focusing on the deficiencies of the current Local Residential Telephone Service TSO, we have focused on alternative approaches to deliver basic telecommunications services in a more efficient manner. We are proposing a technology neutral standard and changes to the TSO funding arrangements.

NZ Police Comment:

Read and understand the TCF proposal of the concept of a 'technologically neutral standard' and acknowledge that changes to the funding arrangements may be necessary.

8 We propose that the basic access service be redefined, so that it guarantees similar functionality, but enables the service to be delivered across multiple technologies including copper, cellular, cable, wireless and satellite.

NZ Police Comment:

Read and understand the TCF position regarding the most appropriate alternative technologies proving the service. However Police believe there are social and economic factors which must be considered in parallel with technological considerations.

9 Further, we have developed several draft options that could be used to deliver the TSO in the future consistent with the objectives outlined above:

(a) Amended Status Quo – This option is a variation on the current TSO provided by Telecom. It is based on a re-specified basic access service, and the roll back of service obligations where the market is effectively competitive. Telecom would still be compensated after the Commerce Commission (Commission) models the cost of providing the service;

(b) Contestable provision of the service – This is based on the idea that customers to whom telecommunications providers do not wish to provide a TSO service to, at or below the current price cap, should be put out for tender. The successful tenderer would then be responsible for ensuring the provision of service to those customers. The TSO funding would go to that tenderer; or

(c) Staged migration to contestable provision – This recognises the complexity of developing a fully contestable process, by providing for a phased migration over time from the existing TSO mechanism to a fully contestable model.

NZ Police Comment:

Read and understood.

10 The options in this paper are part of a package that includes the new technology neutral standard. Amending the proposed standard significantly could change the dynamics of the options that are covered which may in turn make the proposed options unworkable.

NZ Police Comment:

Read and understood.

11 The views in the paper reflect the TCF's "work in progress" on how to improve the TSO given the parameters set down in the MED discussion paper and Minister's press release. The views do not necessarily reflect the TCF's views, nor any provider's views, on the most efficient means of delivering the objectives of the TSO if it was considering the issues without such parameters.

NZ Police Comment:

Read and understood.

12 This paper seeks comments on our proposed approach. In particular, we seek feedback on the adequacy of a technology neutral service definition and the different options for ensuring services continue to be available.

NZ Police Comment:

Read and understood.

13 We invite your feedback by 21 April 2008. Submissions should be emailed to TSO.Review@tcf.org.nz. For further information, please contact Ralph Chivers, TCF Chief Executive on (021) 576 424.

NZ Police Comment:

This document provides the NZ Police feedback as requested.

B. PURPOSE

14 This paper provides the TCF's view on how the Government might best ensure the provision of a basic residential telephone service within certain policy parameters.

NZ Police Comment:

Read and understood.

C. INTRODUCTION

15 Telecommunications networks provide a vital link to family, the wider community, health and social service providers and emergency services, which is of huge importance to all New Zealanders.

NZ Police Comment:

Agree, essential for the provision of nationwide emergency call services.

16 As providers of telecommunication services, we recognise the importance of keeping people connected and we support the objectives of the current Local Residential Telephone Service TSO, to ensure the widespread coverage of an affordable residential telephone service for all New Zealanders.¹

NZ Police Comment:

Read and understood.

17 While there is no standard definition of what constitutes a universal service, we agree with the general consensus, that the focus should be on providing access to basic quality, affordable, telecommunications services with the key objective of allowing citizens to participate more effectively in society – i.e. social inclusion.

NZ Police Comment:

Read and understood.

18 Competition is increasingly delivering the objectives of the TSO in New Zealand. Competition has seen new players arrive with new technology and more options for customers. As the Organisation for Economic Co-operation and Development (OECD) has noted in its yearly Communications Outlook, competition drives prices down while improving choice and service quality.

NZ Police Comment:

Read and understood. However Police are concerned about what happens in the areas where effective competition can not be economically delivered.

19 However, a small and shrinking minority of households still require the safety net of the TSO to guarantee an affordable residential telephone service. We believe that as technology continues to develop and competition intensifies, the need for such a safety-net will decline – but we also recognise that we are not there yet and it is important that the TSO continues to protect potentially vulnerable customers.

NZ Police Comment:

Read and understood. Police agree that ongoing protection for vulnerable customers must continue to be provided.

¹ The Local Residential Telephone Service TSO is one of two TSO instruments established to date under the Telecommunications Act 2001. The other is the Telecommunications Relay Service TSO and is not the subject of discussion in this paper. For the sake of brevity we refer to the Local Service TSO as 'the TSO'.

20 Accordingly, it is important that a solution transparently targets those customers who cannot be served on commercial terms. It is also crucial that the solution is technology neutral so that different customers can be served by the most appropriate technology for their situation. This is particularly important now that several competing technologies are able to offer a useful residential service.

*NZ Police Comment:
Read and understood*

21 Finally, we believe the TSO is purely a backstop or safety-net and should not be used as a tool for addressing other challenges such as promoting the uptake of broadband. For example, establishing a system where a wireless, satellite or mobile operator has to subsidise Telecom to roll out broadband access in remote areas would make no sense for users or market participants.

*NZ Police Comment:
Read and understood.*

22 The recommendations in this report are based around the overarching principles of social inclusion, access and affordability, along with two key Government objectives – access to free local calling and continued industry funding of the TSO.

*NZ Police Comment:
Read and understood.*

23 Our over-riding objective is the promotion of social inclusion at lowest cost. This implies a focused basic access service, minimum intervention, technology and competitive neutrality to foster competition, and a simple, transparent, low cost funding model.

*NZ Police Comment:
Read and understood.*

D. BACKGROUND

24 The Ministry of Economic Development (MED) released a discussion document on the TSO Regulatory Framework in August 2007.² The review identified the central role that telecommunications services play, by enabling economic growth and the development of a knowledge-based economy, as well as providing essential social benefits and timely access to emergency services.³

*NZ Police Comment:
Read and understood.*

25 The review looked at how the current TSO might be amended to better deliver these requirements in the face of changing technology, the challenges of rural infrastructure investment, and whether any obligation should be extended to include broadband.

*NZ Police Comment:
Read and understood.*

26 The MED received submissions from a cross section of the community⁴ including a submission from the TCF on behalf of our members.

*NZ Police Comment:
Read and understood.*

² Ministry of Economic Development, Telecommunications Service Obligations Regulatory Framework Discussion Document, August 2007.

³ Ibid, p 5

⁴ http://www.med.govt.nz/templates/ContentTopicSummary____32177.aspx

27 In our submission, we supported the policy objectives set out in the MED discussion document, of a minimum voice service at an affordable price. We also felt that the objectives of the TSO could be met in a more efficient manner than the current TSO provides, potentially minimising the impact on competition and investment. We also said that broadband should be dealt with separately from the provision of an affordable basic telecommunications service. Whilst the uptake of broadband is increasing, there is no clear public policy rationale to include it as a 'basic' service.

*NZ Police Comment:
Read and understand TCF position.*

28 Due to the degree of commonality amongst TCF members on MED's review, we offered to do further work on a solution by establishing a working party that would develop a comprehensive proposal for the Minister for Communications and Information Technology by April 2008.⁵ We proposed that the working party would consider:
(a) A minimum retail voice standard for Local Service; and
(b) Service availability requirements.

*NZ Police Comment:
Read and understand TCF position.*

29 This paper outlines the TCF's suggestions on a recommended Government standard that would best ensure the provision of a basic telephone service for all New Zealanders at an affordable price, what consumers could expect from such a service, how this can be guaranteed in a technology and competitively neutral way, and mechanisms to deliver it. We have also given careful consideration to ensuring that any mechanism minimises the competitive impact and cost imposition on the industry.

*NZ Police Comment:
Read and understood.*

E. THE CURRENT TSO

Agreement between the Crown and Telecom

30 The TSO for local residential telephone services requires that Telecom delivers basic telecommunications services under a specific set of conditions, including the provision of free local calling for residential customers.

*NZ Police Comment:
Read and understood.*

31 The original 'Kiwi Share' agreement was established in 1990 when Telecom was privatised. At that time, the emphasis was on residential voice call services. The TSO agreement between the Crown and Telecom was established in 2001. The TSO Agreement sets out the requirements for the minimum service specifications, coverage requirements, and the maximum price that Telecom may charge for the local service. This includes minimum requirements for dial-up internet calls.

*NZ Police Comment:
Read and understood.*

32 The general consensus within the telecommunications industry is that the TSO in its current form is not an appropriate mechanism to deliver on the Government's policy. However, rather than focusing on the deficiencies of the current Local Residential Telephone Service TSO, we have focused on alternative approaches to deliver basic telecommunications services in a more efficient manner.

*NZ Police Comment:
Read and understand TCF position.*

⁵ Telecommunications Carriers' Forum, Submission on the Telecommunications Service Obligation (TSO) Regulatory Framework Discussion Document, 15 October 2007.

TSO Framework

33 The Telecommunications Act 2001 established the regulatory framework for the TSO instruments. Under this framework, the Commission holds responsibility for measuring compliance with TSO instruments, and allocating the cost of these obligations among the telecommunications industry. In the case of the Local Service TSO, the Commission models the economic cost for Telecom to serve commercially non-viable customers as a result of its TSO obligations, and then allocates that cost amongst the industry according to their share of industry revenue.

*NZ Police Comment:
Read and understood.*

The development of technology and the telecommunications market

34 Telecommunications is a rapidly changing and evolving market. Since the Kiwi Share was originally conceived in 1990, there have been significant changes in the telecommunications market and the expectations of telecommunication services by New Zealanders.

*NZ Police Comment:
Read and understood.*

35 In 1990, Telecom was ostensibly the only provider of residential telephone services in New Zealand. Today, the majority of New Zealanders have a choice of providers and technologies, including cellular, cable, wireless and satellite to deliver basic telecommunications services. The existing TSO has been unable to reflect the changes and development in the telecommunications market place.

*NZ Police Comment:
Read and understand TCF position. However Police believe that in many of the areas served by the TSO there is, as yet, little choice.*

36 The following table, while not exhaustive, demonstrates the significant change in the telecommunications market place, and the many ways in which New Zealanders are now able to access basic telecommunications services.

| Technology | Company | Capability | Coverage |
|-------------|---|---|--|
| Copper PSTN | Telecom | Delivery of voice and data services | Near ubiquitous coverage |
| Mobile | Telecom (CDMA) | Delivery of voice and data services | Covers "around 97% of the places New Zealanders live, work and play". ⁶ |
| | Vodafone (GSM) | Delivery of voice and data services | Covers "around 97% of New Zealanders live, work and play within Vodafone coverage". ⁷ |
| Cable | TelstraClear | Delivery of voice and data services | TelstraClear Residential Hybrid Fibre Coaxial (HFC) networks in Wellington and Christchurch |
| Satellite | IPStar (via retail providers) | Delivery of voice and data services Supports voice applications over IP network with "uniform high quality nationwide service anywhere" ⁸ Supports off-the-shelf Analogue Telephone Adapter, IP or LAN Phone & PABX and Enterprise & Carrier VoIP Gateway. | Ubiquitous coverage |
| Wireless | Kordia Extend (via retail providers) ⁹ | Delivery of voice and data services Kordia Extend Network via retail providers "The Extend network uses 'Line-of-sight' (LOS) radio transmission. These run between end user premises and local high sites with a | Regional coverage |

⁶ <http://www.telecom.co.nz/content/0,8748,200499-201927,00.html?text=mhp1>

⁷ <http://www.vodafone.co.nz/help/coverage/>

⁸ http://www.ipstar.co.nz/en/p_voice_app.html

| Technology | Company | Capability | Coverage |
|------------|-----------|---|-----------|
| | | path length of around 50 km. This means that telecommunication companies are able to provide rural and provincial New Zealanders - who currently can't access fixed line broadband - with high-speed voice and data services. | |
| | Woosh | "So long as you're within our coverage area, you can get Woosh Phone with voicemail for around the same cost as your Telecom phone line with voicemail, and we'll throw in the broadband, free**" ¹⁰ | |
| | BlueReach | WiMax rollout in Whangarei | Whangarei |

NZ Police Comment:

Read and understood. However Police understand that while both main cellular networks cover large population areas and main routes, they only cover approximately half of New Zealand's land area and hence exclude many TSO customers.

37 Further developments, both on a regional and a national basis are expected to continue, including New Zealand Communications announced entry into the market.

NZ Police Comment:

Read and understood.

Why is competition important?

38 As the OECD noted in its 2007 Communications Outlook, competition and the drive for new technology has provided benefits to customers and providers, by reducing the cost of providing services. This has resulted in direct flow-on benefits to customers who pay less.¹¹ The OECD argued that competition has provided more flexible pricing packages and lower prices – improving affordability, increased incentives for efficient operation and enhancing the quality of services while encouraging investment.¹²

NZ Police Comment:

Read and understood.

39 As competition drives greater choice and lower prices it also has flow on effects that deliver social benefits in ways that are not always anticipated by policy makers.

NZ Police Comment:

Read and understood.

40 The growth of the mobile telephone market is a good example of this. In particular, pre-pay mobile phones have provided a cheaper and more effective phone service for many New Zealand families – enabling people to keep control of their monthly bills, while staying connected to friends, family and the community.

NZ Police Comment:

Read and understood.

⁹ <http://www.kordia.co.nz/node/1074>

¹⁰ <http://www.woosh.com/ContentClient/Phone/PhoneOverview.aspx>

¹¹ OECD, Telecommunications Outlook, July 2007, p. 34.

¹² Xavier, What Rules for Universal Service in an IP-Enabled NGN Environment, ITU Background Paper, 2006, p. 9.

41 In 2007, Ofcom, the United Kingdom regulator, found that household mobile penetration was 93 per cent, household fixed-line penetration 90 per cent, with the majority of UK households having both. Ofcom research found that mobile only households tend to be in lower socio-economic groups who wanted to have the “greater control and flexibility over spending offered by pre-pay mobile”.¹³ This is in spite of requirements on British Telecom to provide low cost tariffs for low income households.

NZ Police Comment:

Read and understood. Police believe that comparative population densities and geography of the UK when compared with New Zealand needs to be taken into account when making comparisons of this kind.

42 The European experience has shown that competition in the mobile market has also had an effect on customers in remote rural areas. For mobile operators, coverage acts as a key dynamic of competition and thus competition has driven rural access to mobile more extensively than previous regulatory coverage targets. Geographically-averaged mobile prices mean that mobile price competition is equally robust in rural (expensive to serve) and in urban (lower cost to serve) European regions.

NZ Police Comment:

Read and understood. Again, Police believe that comparative population densities and geography of Europe when compared with New Zealand needs to be taken into account when making comparisons of this kind.

43 Although rural coverage has been the subject of state assisted intervention in a number of markets, it is still a significant European public policy success – with access and affordability being delivered by competition rather than formal Universal Service Obligations (USO) style regulation¹⁴.

NZ Police Comment:

Read and understood.

44 This strongly supports the view that government interventions for ensuring access to affordable services should focus first on promoting competition and providing the certainty required for investment through quality decision-making.

NZ Police Comment:

Read and understand TCF position, but Police are not yet convinced of this conclusion.

Other reviews underway

45 There are a number of other reviews underway that impact basic telecommunications services.

Access to Emergency Services

46 The industry recognises the importance of access to emergency services and at the request of the Minister of Communications, the TCF is developing an industry code of practice to provide the general public with the reassurance of a responsible industry approach to emergency services.

NZ Police Comment:

NZ Police are working with the TCF in the construction of the Telecommunications Carriers Forum Code of Practise.

¹³ C2DE is a social classification used in the UK and Ireland encompassing ‘skilled working class’, ‘working class’ and ‘those at the lowest level of subsistence’.
http://www.nrs.co.uk/about_nrs/data_available/definitions_of_social_grade.

¹⁴ See for example European Commission, Report regarding the outcome of the Review of the Scope of Universal Service in accordance with Article 15(2) of Directive 2002/22/EC, SEC(2006)455, p.3. *{Note, Police believe the reference should be to Section 445?}*

47 Any changes to the TSO framework must ensure that any minimum service adheres to the emergency services code of practice.

NZ Police Comment:

There are over 3,000,000 '111' (both genuine and false) calls per year in New Zealand, with over 1,000,000 genuine '111' calls. Police recognise that differing technologies (fixed line, cellular, satellite based) will deliver differing levels of quality of service. Police seek to ensure that the vast majority of calls will reach the Initial Call Answering Point and exceed an acceptable quality of service for New Zealanders (based on fixed and cellular standards), while accepting that there will be a small number of calls (to be treated on an exception basis) that will have a lower quality of service because of the underlying technologies used, e.g. satellite based telephony.

Disconnection Code

48 There is currently no agreed set of minimum standards between telecommunications providers in regards to disconnection. Given recent public interest in disconnection practices in the electricity industry, the TCF is developing an industry code for disconnection.

NZ Police Comment:

Agree, this is required to ensure we have consistent disconnection parameters that customers understand, particularly regarding when access to the '111' service is available (or not).

49 Consumers must be informed in a timely manner about the discontinuation of their service, particularly for those customers where basic telecommunications services may be a lifeline.

NZ Police Comment:

Read and understood.

50 The providers of basic local services would need to adhere to the disconnection code of practice.

NZ Police Comment:

Read and understood.

Customer Complaints and Dispute Resolution Service

51 The telecommunications industry has recently launched the Telecommunications Dispute Resolution Service (TDRS) which is a free and independent service to help work out disputes between consumers and telecommunications companies.

NZ Police Comment:

Read and understood.

52 Most members of the TCF are signatories to this scheme and have agreed to adhere to a Customer Complaints code which sets out the principles and processes for customers to make a complaint and the handling of those complaints/disputes.

NZ Police Comment:

Read and understood.

F. PUBLIC POLICY OBJECTIVES

53 Any market intervention must be underpinned by transparent public policy objectives. In the case of telecommunications services, many countries have established arrangements to ensure widespread availability of services (typically called Universal Service Obligations (USO)), and to regulate the provision of residential PSTN services for consumer protection reasons. These requirements are being reviewed in many markets to reflect the availability of new technologies and regulatory requirements.

NZ Police Comment:

Read and understood.

54 There is no standard definition of what constitutes universal service, although it generally focuses on expanded access to affordable basic telecommunications services in remote and underserved areas.

*NZ Police Comment:
Read and understood.*

55 The overarching principle of the TSO framework is social inclusiveness. Access and affordability are the key components of this principle and the TSO. The Government's objective when establishing the TSO was to ensure the delivery of "cost efficient, timely and innovative telecommunications services on an ongoing, fair and equitable basis to all existing and potential users."¹⁵

*NZ Police Comment:
Read and understood.*

Social Inclusion

Access

56 The TSO guarantees that New Zealanders have access to a basic telecommunications service at a capped price with free local calling, irrespective of the cost to provide those services.

*NZ Police Comment:
Read and understood.*

57 This ensures that people living in sparsely populated areas are guaranteed a service that, in the absence of such protection, may be highly priced due to the higher costs associated with serving such customers. The costs of serving such "commercially non-viable" customers are shared among all providers.

*NZ Police Comment:
Read and understood.*

Affordability

58 Access to a service alone does not meet social objectives if the service is not affordable. Ensuring that all New Zealanders have access to basic telecommunications services, irrespective of the remoteness of their property, at a reasonable price is important for social inclusiveness.

*NZ Police Comment:
Read and understood.*

59 If there was no pricing protection in areas where competition was not sufficient to keep prices down, or in areas that were expensive to serve, such as rural communities, consumers may be less able to afford basic access services.

*NZ Police Comment:
Read and understood.*

60 Although many jurisdictions take a different approach to the issue of affordability, the TCF accepts that it is the Government's policy to maintain free local calling and agrees with the objective of ensuring that all New Zealanders have access to basic telecommunications services ** at a reasonable price.

*NZ Police Comment:
Read and understood. ** Add "and emergency services"*

¹⁵ Ministry of Economic Development, *Telecommunications Service Obligation Regulatory Framework Discussion Document*, August 2007, p.20

Consumer Protection

61 Consumer protection is a core element of the TSO. Clearly, in areas where there is little competition the TSO serves as a form of protection from price increases that can result from the monopoly provision of a service. However, the TSO also specifies a wider range of components that sit behind a basic telephone service such as service standards.

*NZ Police Comment:
Read and understood.*

62 As the range of services and providers has grown, it makes greater sense to ensure that protection for consumers of telecommunications services is provided by other means.

*NZ Police Comment:
Read and understood. Replace "ensure that" with "consider whether".*

63 Much of the work of the TCF has been to establish codes of practice for the purposes of consumer protection.

*NZ Police Comment:
Read and understood.*

Economic Transformation

64 Telecommunications has a significant role to play in achieving the five economic transformation goals of the government:

- (a) Growing globally competitive firms;
- (b) Building world-class infrastructure;
- (c) Encouraging innovative and productive workplaces;
- (d) Establishing Auckland as an internationally competitive city; and
- (e) Promoting environmental sustainability.

*NZ Police Comment:
Read and understood.*

65 We are acutely aware of the importance of telecommunications for New Zealand's economic transformation, in particular for improving productivity and environmental outcomes.

*NZ Police Comment:
Read and understood.*

66 Achieving these goals will require ongoing investment in telecommunications infrastructure. The Digital Strategy feeds directly into the economic transformation strategy and consists of three components: connection, content, and confidence.

*NZ Police Comment:
Read and understood.*

67 The provision of basic telecommunications services for all New Zealanders should not interfere with or undermine incentives for all telecommunication providers to invest. For that reason, any mandated requirement to provide the services must be competitively neutral, cost efficient, and should maximise incentives for further investment in developing technology.

*NZ Police Comment:
Read and understand TCF position.*

68 Previously, when there was a single telecommunications provider, an instrument such as the TSO could have been a suitable instrument for setting wider government objectives on issues such as economic growth. However, as the market has evolved so have Government policy responses.

*NZ Police Comment:
Read and understand TCF position.*

69 In recent years Government interventions, including the operational separation of Telecom, the Unbundling of the Local Loop and Bitstream Services, and the broadband challenge, have demonstrated that the overriding approach is to ensure that competition can be ** the key driver of investment and innovation.

*NZ Police Comment:
Read and understand TCF position. ** Replace “the” with “a”.*

70 The Government has also emphasised the potential for wireless providers to play a significant role, particularly in rural and provincial areas. Recent auctions in the 2.3 GHz, 2.5 GHz and 3.5 GHz bands have created opportunities for new entry. As wireless and satellite technologies continue to develop and become cheaper and more viable for customers, they have the real potential to ** remove the need for many of the protections of the TSO.

*NZ Police Comment:
Read and understand TCF position. ** Replace “remove the need for many of the protections of” with “provide services and protections required by”*

71 In such an active environment of government and industry activity it is important that the TSO be as focused as possible on meeting its objectives rather than being broadened in a way that will impact on other initiatives that are underway.

*NZ Police Comment:
Read and understand TCF position.*

72 The simpler and cheaper it is to provide a basic level of service, the more time, effort and capital carriers have available to focus on New Zealand’s longer term goals.

*NZ Police Comment:
Read and understand TCF position.*

G. DESIGN PRINCIPLES – GUIDING QUESTIONS

73 This section of the report sets out the principles used to inform our analysis of different options for achieving the objectives of the Local Residential Telephone Service TSO in the most efficient manner.

- (a) What services should be included? Should it only provide voice services, or should it include data service capabilities for a facsimile service, a narrowband internet service or even broadband services?;
- (b) How should the quality dimension of the service be set? The two key options for regulating the quality of the service are to regulate the inputs to the service (e.g. the technology or network elements employed in providing the service) or the outputs of the service (e.g. the quality of the service, bandwidth, interference);
- (c) Who should provide the service? The universal service provider may be a designated operator or the provider(s) could be selected using a contestability model; and
- (d) How can the cost of the policy be funded? For example, should the cost of the policy be funded by industry or government? If funded by industry, how should the funding model be designed? How should the cost of the policy be measured?

*NZ Police Comment:
Read and understood.*

74 A comprehensive, certain and predictable universal service policy based on sound principles and objectives should **promote competition and investment in the telecommunications industry. The over-riding policy objective is to achieve social inclusion at lowest cost.

NZ Police Comment:

Read and understand TCF position. Replace “promote” with “not restrict”.

75 Policies encouraging universal access have underlying economic and social objectives. Society places value on its members being able to communicate, and economic welfare can be improved by increasing telecommunications access above what might be achievable by the market.

NZ Police Comment:

Read and understood.

76 The ‘level’ of universal service must be set having regard to:

- (a) Basic New Zealand community expectations with respect to communications access; and
- (b) The cost of maintaining the minimum level of universal service.

NZ Police Comment:

Read and understand TCF position.

77 Whatever level of universal service is chosen, it should be achieved at minimum cost to New Zealanders.

NZ Police Comment:

Read and understand TCF position.

78 Meeting the basic requirements of New Zealanders might legitimately be thought of as providing a ‘social safety net’. This basic service should be made available at least cost. A decision to increase the level of the universal service beyond the basic requirement will increase the cost of provision. Any such decision should be ‘proportionate’ and transparently balance the value of increasing communications opportunities and the associated costs. This balancing is critical in the context of supplying more advanced services (e.g. data services) in rural and remote areas where the costs of providing those services are very high.

NZ Police Comment:

At the minimum the service must include all voice calls (for access to emergency services). Police see a future extension of services to data based access to emergency services, e.g. the use of text messaging or e-mail when using voice based conversation may endanger the caller.

79 The associated costs of meeting different levels of obligations goes beyond the direct costs of providing those levels. They extend to the costs and distortions associated with raising the funds to cover the loss associated with providing the TSO service below cost. The predominant options for raising these funds are through an industry specific tax or via the Government’s general taxation revenue. Both of these sources of funds impose costs on New Zealanders associated with distorting their economic decisions. However, the cost of raising funds from an industry tax rises exponentially as the funding requirement increases.

NZ Police Comment:

Read and understand TCF position.

80 Essentially this means that if the Government desires to add new high cost obligations to the TSO, it should contribute financially for this to be viable. Put simply, the industry is able to fund a moderate levy associated with moderate obligations – anything more and the Government will need to shoulder some responsibility for funding its policies.

NZ Police Comment:

Read and understand TCF position.

81 Implementing other policy objectives within the TSO scheme is also likely to impose significant cost and must be objectively assessed. For example, measures meant to promote competition such as allowing all users to choose their provider of national and international services, or their internet service provider, may impose significant cost with limited benefit to competition.

*NZ Police Comment:
Read and understand TCF position.*

82 More detailed principles that follow from this are set out below.

Supporting principles

Any intervention should be restricted to the provision of 'necessities'

83 The TSO should not be used to ensure that all New Zealanders consume the same quality and quantity of telecommunications. This is because:

- (a) Beyond the basic minimum service, New Zealanders have the responsibility for determining what services they access and how much they want to use or spend on telecommunications services;
- (b) Also, the fact that a majority of users consume a good is not a reason for policy intervention to ensure universal access. For example, even in the case where the good or service increases social inclusion (e.g. motor vehicle or television ownership) the existence of majority ownership does not in and of itself warrant intervention to ensure universal access; and
- (c) Technological advancement has seen an increasing number of users' access services solely via a mobile handset, whilst others use their personal computers to make telephone calls (i.e. voice over internet protocol services such as Skype). These developments mean that it is increasingly difficult to define one service which generally meets the needs of the average user.

*NZ Police Comment:
Read and understand TCF position. Police believe there is a need for agreed definition of a basic telephone service with minimum service standards including access to emergency services.*

84 The efficiency of markets can best be harnessed by a policy that, beyond the basic requirements, allows the market to determine the scope of services provided and allows prices to reflect the cost of providing them. This also ensures that users adapt their demand for services to reflect the cost of providing them – and that those who enjoy the most benefit also bear the most cost. For example, some users will make significant use of facsimile services, and would gain great value from its provision, however, for many other users facsimile services are likely to provide little benefit and the savings from not providing that service capability universally could be significant.

*NZ Police Comment:
Read and understand TCF position.*

85 For these reasons, we believe that any service obligations should be restricted to the provision of basic technology neutral access services to ensure that the TSO is future-proofed.

*NZ Police Comment:
Read and understand TCF position. Refer comment in Clause 83 regarding definition of what constitutes "basic telephone / access services".*

Clear focus on public policy objectives

86 In order to meet the objective of minimising the cost of universal service it is important to recognise the cost of preventing the market operating efficiently.

*NZ Police Comment:
Read and understand TCF position, however the core assumption is that the market will be efficient without intervention. In a small market such as New Zealand's this may not be the case.*

87 The form of regulation should be chosen to minimise the cost of interventions.

Alternatives include:

- (a) Measures to facilitate network expansion (e.g. spectrum policy and network sharing); and
- (b) Lightening of price regulation, including relaxing retail price controls in non-TSO areas (allowing for some cross-subsidies) and reassessing interconnect arrangements to increase revenue streams from TSO areas – this could also be done on mobile networks to improve the economics of rollout in marginal areas.

NZ Police Comment:

Read and understand TCF position.

88 In general, competition is more effective at establishing the cost/quality trade off demanded by consumers. The market has the unique ability to match the preferences of users, their willingness to pay and the cost of providing services. Where competition is effective it should be relied on in preference to regulation. In circumstances where ** Government must play a role in setting standards and prices it should take into account the same factors the market would (e.g. consumer valuations and cost).

NZ Police Comment:

*Read and understand TCF position. ** Add “the market fails”.*

89 The Government should be particularly cautious in regulating services such as narrowband and broadband internet. The market for these services is still evolving so it is important that we look to future-proof the TSO by being technology neutral. Looking ahead, it is likely that the demand for broadband will ** dominate that for narrowband internet. This means that:

- (a) Including a narrowband service in the TSO is likely to be inappropriate as it is likely to encourage investment in infrastructure that is unsuitable for broadband services; and
- (b) Including a narrowband service in the TSO may distort future policies in relation to promoting the use of broadband, particularly attempts to introduce contestability in the delivery of services.

NZ Police Comment:

*Read and understand TCF position. ** Replace “dominate” with “be much greater”.*

90 However, including a broadband service in the TSO is likely to be premature as it is unclear as to how the market for that service will develop and uptake is still relatively low. It is also likely that other options may be more effective in promoting broadband use, such as the Government’s Digital Strategy and other central and local government broadband initiatives.

NZ Police Comment:

Read and understand TCF position.

91 An ITU report on the issue of evolving USOs notes that broadband penetration rates are at present “well under the penetration level where a household’s inability to access broadband services at a ‘reasonable rate’ could be considered a form of social exclusion.”¹⁶

NZ Police Comment:

Read and understand TCF position.

Damage to competition should be minimized

92 We believe that competitive/contestable supply of TSO services should be relied on where feasible.

NZ Police Comment:

Agree, providing access to ‘111’ emergency services are an integral component of the TSO.

¹⁶ Xavier, What Rules for Universal Service in an IP-enabled NGN environment, ITU Background Paper, 2006.

93 Effective competition is the best means of constraining price and ensuring high performance levels. Minimum standards in competitive areas of New Zealand could now be removed as consumers can choose their preferred quality of service.

NZ Police Comment:

Police believe the NZ public require a practical minimum quality of service (which includes both accessibility and intelligibility factors) to ensure the robustness and resilience of the emergency call service 'end-to-end'.

94 In other areas where competitive supply is not likely to meet the universal service objective the potential for contestability should be explored. The benefits of contestability typically come in two forms – competition for the market or competition in the market.

(a) Competition for the market is achieved by a contestable arrangement in which operators compete to be the TSO provider for a service or for an area; and

(b) Competition in the market is achieved by a contestable arrangement in which operators compete to be the TSO provider for a particular user.

NZ Police Comment:

Read and understand TCF position.

The TSO should not determine the technology used

95 Any TSO obligations should be technology neutral. For example, mobile and broadband technology is increasingly being used to provide voice services in preference to traditional methods. A TSO qualifying basic voice service must be able to be delivered over different access options.

NZ Police Comment:

Read and understand TCF position.

96 Avoiding technology specific regulation is best achieved by defining the nature of the TSO according to the outcomes it achieves for users rather than the inputs or characteristics of networks needed to deliver the service.

NZ Police Comment:

Read and understand TCF position. Police agree, providing ensuring that any inputs used to provide for specified outputs do not exclude current or future access to or lower existing quality of service levels to '111' services.

97 We believe that technology neutrality will promote contestability and hence increase the potential for identifying the least cost of supply of TSO services. In the case of voice services, the definition of required service outcomes should have regard to the potential of both fixed and mobile networks.

NZ Police Comment:

Read and understand TCF position. Agree, noting Police's previous comments regarding quality of service levels.

98 Suppliers should also be free to deploy the technology that lowers current and/or expected future costs – irrespective of any contestability regime.

NZ Police Comment:

Read and understand TCF position. Agree, providing ensuring that any inputs used to provide for specified outputs do not exclude current or future access, or lower existing quality of service levels, to '111' services.

Certainty

99 Significant change and investment is continually occurring in telecommunications infrastructure. Therefore, certainty of current and future obligations is a key goal. This will minimise the perceived cost of the TSO for suppliers in both TSO areas and competitive markets.

NZ Police Comment:

Read and understand TCF position. Police have already indicated to the TCF the need for Telecommunication Providers to provide real-time 'location' information to emergency call services for emergency calls. Provision of such services will become practical as updated generations of technology and new technologies are introduced.

Funding model should be equitable, simple, transparent and efficient

100 A funding model should be equitable, simple, transparent and efficient.

*NZ Police Comment:
Read and understood.*

101 The TCF accepts that an industry levy is the government's preference and we have developed all of the options discussed in this paper on the assumption that such a funding model will be retained. However, we consider that direct Government funding of the TSO is superior to an industry specific levy across all of the criteria mentioned above. This reflects the broader taxation base available to the Government (which reduces the efficiency costs of raising revenues), the progressiveness of the Government tax base (which promotes equity) and the transparent nature of Government taxation.

*NZ Police Comment:
Read and understand TCF position.*

102 Transparency of the funding model can relate to the funding mechanism, who is paying for the TSO fund and who the customers are who benefit from the fund. To the extent that an industry levy model is retained, there are different options for meeting the above objectives.

*NZ Police Comment:
Read and understood.*

103 The TCF has not commented on whether the current approach to apportioning costs is appropriate. There are likely to be widely divergent views on this issue.

*NZ Police Comment:
Read and understood.*

H. A TECHNOLOGY NEUTRAL RESIDENTIAL SERVICE

104 Social inclusion implies that a reasonable quality, basic service needs to be available at an affordable price. There are potentially multiple technologies and providers of voice services for consumers, which is why we hold the view that the definitions and measures must be technology neutral.

*NZ Police Comment:
Read and understood.*

105 Consumer protection is important. However, this can be provided through self regulatory codes such as the Emergency Services Code and the recently established Telecommunications Disputes Resolution Service, general consumer protection law and through the wider objectives of the Telecommunications Act, which seeks to promote competition for the benefit of end users. Also regulatory codes such as Lawful Intercept and Number Portability could ensure that any basic voice service will be supported by these consumer protection mechanisms.

*NZ Police Comment:
Read and understand TCF position.*

Elements of a Technology Neutral Residential Service

Functionality

106 The table below outlines the major elements of the proposed service and how they are currently provided. In setting the requirements we weighed them against the policy objectives and design principles.

| Service element | Importance for policy objective and proposed approach | How this is currently provided |
|---|--|--------------------------------|
| Voice access that supports a single simultaneous call | Very important Must provide | TSO deed |
| Access to calling – including receiving and terminating from other service providers | Very important Must provide | TSO deed |
| Free local calling | Government requirement Must provide | TSO deed |
| Emergency Services Calling (ESC) | Very important Must comply with Emergency Services Calling Code | In part TSO deed |
| Fax calling | See discussion below Would provide equivalent customer functionality, i.e. redefine as document transfer. | TSO Deed |
| Internet access | See discussion below. Would provide equivalent customer functionality, i.e. redefine to allow for options other than dialup. | TSO Deed |
| Ability to carry a Telecommunications Relay Service | See discussion below | Covered as a different TSO |
| Directory listing | Must provide access to | TSO Deed |
| Directory assistance | Important Must provide access to | TSO Deed |
| Availability of caller number presentation | Low | Not covered |
| Ensuring the ability of subscribers to be supplied TSO local service on a 'ported in' local number. | Low for social inclusion but possibly significant from an implementation perspective. | Not Covered |

NZ Police Comment:

Access to single simultaneous call, receiving and terminating from other service providers, free local calling, fax and deaf services, emergency services calling, directory listing and assistance and caller and location related information are seen by Police as critical components of overall access to emergency call services.

Internet Access

107 As shown in the table above, internet access forms part of the proposed basic access service. This is in line with the existing TSO requirement for dial-up internet access.

*NZ Police Comment:
Read and understood.*

108 The MED's discussion document raised the question of whether broadband access should be included as a requirement. The industry, the Commission and the Telecommunications Users' Association of New Zealand have argued for the separation of broadband from the requirements of a basic telecommunications service.

*NZ Police Comment:
Read and understand TCF position.*

Current Requirements

109 The TSO Deed requires that Telecom provide free local-calling for standard Internet calls as follows:¹⁷

11.1 Line connect speed capacity for standard Internet calls

The measures (which apply for standard Internet calls from and after the second anniversary of the commencement date) are:

- (a) 95% of all existing residential lines meet the 14.4 kps connect speed; and
- (b) 99% of all existing residential lines meet the 9.6 kps connect speed.

*NZ Police Comment:
Read and understood.*

110 The Commission annually confirms that Telecom is meeting these requirements.

*NZ Police Comment:
Read and understood.*

Technology Neutrality

111 The current TSO Deed specifies that dial-up access be provided at the minimum speeds outlined above.

*NZ Police Comment:
Read and understood.*

112 To ensure that other technologies are able to provide the service we recommend that references to 'dial-up' internet be removed.

*NZ Police Comment:
Read and understand TCF position.*

113 The means by which the customer connects with the internet should not be specified as it differs across technology platforms. For example GPRS data connections across a mobile network offers similar functionality to dial up internet access and this maybe a more appropriate means of providing access to some consumers in certain areas.

*NZ Police Comment:
Read and understand TCF position.*

114 The access itself is the key element rather than the means by which this is done.

*NZ Police Comment:
Read and understand TCF position.*

¹⁷ TSO Deed, Part II – Service Quality Measures, clause 11.1, Line connect speed capacity for standard Internet calls

Extending Coverage

115 As indicated in the MED discussion document, the Government is keen to ensure there is a minimum service level for all consumers. In the case of dial-up internet, however, we believe this could drive considerable cost without a corresponding consumer benefit.

*NZ Police Comment:
Read and understand TCF position.*

116 In countries where a minimum data rate has been set there has been debate on the required coverage. In Ireland, for example, a minimum rate of 28.8 kbps was set but the regulator, ComReg, believed it would be inappropriate to require 100 percent of lines to meet the standard. It weighed the benefit of the increased speed to the users affected against the overall cost to Eircom and concluded that the impact on individual users would be negligible while the overall impact on Eircom would divert funds away from projects that would have greater consumer welfare benefits.

*NZ Police Comment:
Read and understood.*

117 The result of the decision was that Eircom was required to report publicly on the number of lines that do not meet the 28.8 kbps standard¹⁸.

*NZ Police Comment:
Read and understood. Police understand that Eircom was also required to provide access for 93.5% by 31/12/05 and 94% by 30/06/06 of lines to the standard and report same.*

Broadband developments

118 The aim of the Local Residential Telephone Service TSO is to ensure access to a minimum level of service so that social exclusion does not result from either a lack of competition or due to high costs associated with serving particular areas. Our objective is to do this with minimal distortion to both the basic telephony market and adjacent markets.

*NZ Police Comment:
Read and understand TCF position.*

119 As noted above, much work is being done to promote the growth of the broadband market – including the operational separation of Telecom, local loop unbundling, wireless spectrum auctions and the Broadband Challenge fund¹⁹. It is important that TSO requirements do not impact on the growth of this market particularly in rural areas where there might be different access technologies for broadband and telephony, for example voice over PSTN combined with broadband over wireless.

*NZ Police Comment:
Read and understand TCF position.*

120 MED's research into rural broadband access found that of the 114 households in the survey which had a broadband connection, 49 percent had either satellite or wireless connections. We see these as extremely important nascent markets particularly for rural businesses.

*NZ Police Comment:
Read and understand TCF position. However Police believe that this is a very small sample and a larger sample may be more indicative regarding new technologies uptake.*

¹⁸ Comreg, Decision Number D9/05.

¹⁹ For information on the Broadband Challenge fund see <http://www.digitalstrategy.govt.nz/Funding/The-Broadband-Challenge/>
NZ Police Response to TCF Report on the TSO

121 We are optimistic about the degree to which competition across technologies will drive investment further into the regions.

*NZ Police Comment:
Read and understand TCF position.*

Facsimile

122 The ability for 'document transfer' is the important driver for the current inclusion of facsimile lines in the TSO service and we recommend this be included as part of the service description. However, although facsimile is still used by many, much of the functionality has been replaced by email, particularly for residential rather than business use.

*NZ Police Comment:
Read and understand TCF position. But Police note that "fax" continues to be a mechanism by which deaf people request emergency services.*

123 On top of declining usage, technological changes are posing difficulties for facsimile machines that are designed to run across a normal fixed PSTN. IP based networks require different interfaces to allow facsimile machines to function so there may be challenges for facsimile users as networks are upgraded.

*NZ Police Comment:
Read and understand TCF position. But Police consider comparatively economic alternatives must be provided to deaf people who specifically have a "fax" for (emergency) communication.*

124 We consider that the functionality of document transfer is an important aspect of a service designed to promote social inclusion for residential consumers. However, given the aim of technology neutrality, we do not consider the service needs to be specified as facsimile access in today's terms as it could exclude consumers from having the best technology fit available to them. For example, a computer or internet based facsimile service could be appropriate for some customers and could be easily accessed via a satellite broadband service.

*NZ Police Comment:
Read and understand TCF position. Note previous comments regarding access to emergency services for deaf people.*

Telecommunications Relay Service requirements

125 We feel the Relay Service is important for social inclusion and agree that it remain required as part of the basic access service. The relay service can currently be accessed via the internet. Any network supporting TSO local service would need to facilitate access to the relay system via the internet.

*NZ Police Comment:
Read and understand TCF position. Police would require that there is no degradation to existing quality of service; therefore phone access may have to be included as well as internet access.*

126 The relay service is being considered for re-tendering when the current service expires at the end of 2009. Any tender would need to ensure that the relay service can be provided across a wide range of technology platforms.

*NZ Police Comment:
Read and understand TCF position.*

Directory Listing

127 The TCF recommends that the current directory listing and directory assistance obligations continue as part of the basic access service. There are a number of ways this could be implemented and this should be investigated further in any implementation phase.

NZ Police Comment:

Read and understand TCF position. Police are concerned that the potential option of off-shore outsourcing of some or all of these services may impact on emergency call quality of service levels.

Other service elements considered

128 Officials have raised other issues for consideration which we have analysed against the public policy objectives and principles. These are outlined below.

Emergency services calling first answering point.

129 This is an important service which is currently provided via Telecom's network. The TCF considers that the management of the emergency services first answering point should be dealt with separately from the TSO for local service. The Emergency Services Code will address this issue and the provider of the TSO service will have to comply with the code.

NZ Police Comment:

Police are working with the TCF to address this topic. The Emergency Call Services Strategy has identified several options for the provision of this service and these are currently being assessed. It is the Police position that, whichever option is chosen, quality telephony access to emergency services for the public is essential. This key service is currently regulated under the TSO, similar public assurance of service provision, quality and access must be maintained whichever future option for Initial Call Answering Point (ICAP) is chosen.

Choice of Provider for Tolls/ISP

130 Under the current framework the TSO local service is supplied by Telecom generally across its PSTN network. This allows the use of dialup internet through a chosen Internet Service Provider (ISP) and there are industry agreements to provide Non-Code Access (NCA) on the network to ensure consumers have a choice of toll providers.

NZ Police Comment:

Read and understood.

131 One of the key objectives of the proposed basic access service is that it be technology neutral so that the best technology can be used to serve customers for whom a fixed landline network is unlikely to ever be suitable. For some of these technologies providing the choice of toll providers and ISP may not be feasible, for example on a cellular based service.

NZ Police Comment:

Read and understand TCF position.

132 We also considered the importance for choice of ISP and NCA for social inclusion. As long as a lack of choice does not impact access to toll calling and functional internet access, and does not adversely affect affordability, we do not see these elements as crucial for meeting the social inclusion objective.

NZ Police Comment:

Read and understand TCF position.

133 While we consider both of these elements are desirable, on balance we do not consider that they should be included as a necessary element of the basic access service. We do, however, consider that during the implementation phase a mechanism should be established to ensure affordability of these services if ISP choice and NCA were not available – for example through tender requirements.

*NZ Police Comment:
Read and understand TCF position.*

Availability of caller number presentation

134 It has been suggested that caller number presentation be included as part of the service as it is already provided free of charge on some networks and may enhance safety by allowing consumers to screen calls.

*NZ Police Comment:
Read and understand TCF position. Further the underlying technology functionality is an essential component in the current method of identifying an emergency caller's location. The calling number provides for the cross-reference to an account name and address (where provided) which gives emergency services a cross-reference to the location of the source of the call. Police expect that in the future this method of identifying caller location will be replaced by real-time provision of caller location information embedded in the call details (for New Zealand based fixed and cellular technologies) when a call is made to emergency services.*

135 For the majority of consumers using the PSTN network this remains an optional extra on top of a normal residential package. We do not consider the service plays a strong safety role as telephone users are able to prevent a number from being displayed to the potential victim if they intend to make a malicious call. Victims of malicious calls are better to contact their carriers who can trace and block a number if required or provide it to the Police.

*NZ Police Comment:
Read and understand TCF position. Police encourage the reporting of malicious calls. Also note comments in Clause 134 regarding the retention of the underlying technology until 'location' information can be provided in a more efficient and effective manner.*

136 Further, we do not consider that as something is provided free on one type of network then it should also be required to be provided free on another network. We do not believe that the service is important in the context of a minimum service designed to ensure social inclusion.

*NZ Police Comment:
Read and understand TCF position. Also note comments in Clause 134 regarding the retention of the underlying technology until 'location' information can be provided in a more efficient and effective manner.*

Ability to retain current number

137 In the event that contestable provision of TSO services is an outcome of the TSO reform process it is possible that some customers may have a change of service provider. In such a case we believe that it is important that customers are able to retain their number if possible.

*NZ Police Comment:
Read and understand TCF position. Noting that in keeping the number that if a change of network or connection location is involved, then that change is advised to emergency services providers (Police / Fire and Ambulance).*

Service performance and measures

138 We propose that service performance and measures could be considered in the implementation of revised arrangements.

*NZ Police Comment:
Read and understand TCF position. Police would recommend that these are simple, measurable and enforceable.*

139 In order to ensure competitive neutrality and encourage the growth of competition across technology platforms it is important that call 'quality' is considered in an appropriate manner.

NZ Police Comment:

Read and understand TCF position. In working with the TCF regarding call quality of emergency calls Police are seeking to use standard industry quality measures (commonly referred to as 'R' factor and 'MOS' measure) and accessibility measures (measured as a blocking ratio) in order to provide a publically acceptable call quality level for the vast majority of calls (fixed and cellular based); while accepting there will be a relatively very small number of calls of lesser quality, such as from satellite phones, which will be treated on an exception basis.

140 Measures that are designed around a PSTN network would be likely to exclude technologies that will play an increasingly important role in serving rural customers such as mobile, wireless and satellite. Such an approach would also be unsuitable for Telecom's NGN when it is operational.

NZ Police Comment:

Read and understand TCF position.

141 Trends in fixed line to mobile phone use show that consumers find performance acceptable, and any slight decrease in voice quality is more than compensated for by the convenience of mobility. Also, the number of people switching to generally low quality VOIP services in order to avoid international call charges is an example of consumers being willing to trade voice quality for price.

NZ Police Comment:

Read and understand TCF position. Police note that while in some circumstances users are willing to trade off quality against cost or convenience, it is imperative that we continue to provide a reliable mechanism for the public to contact emergency services.

142 Our proposed approach is that we rely on the Emergency Services code for setting the basic requirement for call quality, availability and reliability. We see the baseline set by the Emergency Services Code as a minimum level. This would not preclude, in the case of a tendering process, a provider from tendering to provide service at a higher level if that were possible without unduly impacting price.

NZ Police Comment:

Read and understand TCF position. Police are working with other emergency services providers and the TCF to develop the Emergency Services Code of Practise. Also note comments regarding Clause 47.

I. OPTIONS FOR PROVIDING AN AFFORDABLE SERVICE

143 With the proposed re-defined technology neutral residential service there will continue to be customers for which it isn't commercially viable to provide service at the price cap.

NZ Police Comment:

Read and understand TCF position.

144 However it is likely that the number of households who cannot be served on commercial terms will decrease as competition across technologies improves coverage and reduces cost.

NZ Police Comment:

Read and understand TCF position.

Design features

145 Recognising the design principles, the TCF has concluded that any mechanism to provide for uneconomic customers should have the features set out below.

Must minimise overall costs

146 Any new TSO arrangements must minimise the costs to the industry, the market and future innovation.

NZ Police Comment:

Read and understand TCF position. However the drive to minimise cost must not result in a lesser overall quality of emergency calling services.

147 In practice, this means that the mechanism should ensure that the most productively efficient technologies are able to be used to provide the service. Furthermore, the mechanism should not subsidise inefficient technology choices, and providers should be free to optimise their networks and withdraw service when it is efficient for them to do so. From the customer perspective, the provision of the service must facilitate innovation and the deployment of new services.

NZ Police Comment:

Read and understand TCF position. However Police reiterate the core requirement of the public being able to use the standard telephone service to access the '111 system', regardless of technologies used.

148 TSO provider obligations and costs must be aligned, i.e. the cost, customer and funding of service must be kept together. As cost is driven by availability, any unfunded providers must be free to reconfigure their networks to reduce costs.

NZ Police Comment:

Read and understand TCF position. However Police would be concerned of any reconfiguration of networks that led to withdrawal of '111' access where it currently exists, a lowering in the quality of service, or where remaining access incurs an access cost greater than that currently.

149 Further, obligations and funding would ideally fall away where competing overlay networks are deployed that offer the basic access service. The existence of competing networks, in itself, suggests that customers can consume services they value without the need of any inefficient restrictions on the industry.

NZ Police Comment:

Read and understand TCF position. However the above does not automatically address the situation where a network that provides unique coverage may be withdrawn and that coverage not be replaced. Police would be concerned if this was proposed. Further, Police believe it is essential to protect customers against them making unwise decisions, e.g. contracting out of '111' service.

Competitively neutral

150 Competitive neutrality is important in terms of the funding obligations and access to any funding, as well as the effect of funding on the provision of underlying infrastructure, and the provision of retail services.

NZ Police Comment:

Read and understand TCF position.

151 The arrangements should, ideally, aim for contestable provision of any subsidized service and, ultimately, minimise distortions in the retail markets in order to maximise the value delivered to consumers.

NZ Police Comment:

Read and understand TCF position.

152 There are different forms or layers of competitive neutrality, for example:

- (a) The sourcing of the funds could be neutral. This is about how any cost is recovered across the industry. The most efficient mechanism for the economy as a whole (if there is a TSO) is that this is sourced from general taxes. However, as a second best the current allocation based on share of industry revenue is the fallback;
- (b) The allocation of funds to operators who offer the TSO could be competitively neutral. The current regime means that Telecom is the sole recipient of funding; and
- (c) The supply of the key inputs for the TSO service could be competitively neutral – providers have equal opportunity and obligations when providing services for TSO customers.

NZ Police Comment:

Read and understand TCF position.

153 Overall, competitive neutrality means that all operators are treated the same. In particular Telecom (the current provider) should be free to participate in the same manner as all other industry participants. Similarly, if Telecom through a competitive process does not end up being the provider of the service in any area, it should not be required to maintain any network in that area or be required to be the provider of last resort.

NZ Police Comment:

Read and understand TCF position. Also refer comment in Clause 149. Police would be concerned regarding any withdrawal of services where they currently exist, particularly if it results in access to '111' not being available.

154 Competitive neutrality is also related to the principle of technological neutrality as a mechanism. That is technological neutrality will not discriminate between operators based on their technology choices, which is a criticism of the current mechanism.

NZ Police Comment:

Read and understand TCF position.

Stable funding mechanism

155 In general, the industry has little confidence in the current funding arrangements. Telecom has argued that the funding is insufficient to recover its costs and other providers have noted it is an unnecessary and unfair imposition on their business.

NZ Police Comment:

Read and understand TCF position.

156 To be sustainable, the industry must have confidence in how funding is derived and that it is applied in a predictable manner over time. Certainty is important for the service provider and those providing funding. A specified value is one mechanism that would give all providers greater certainty.

NZ Police Comment:

Read and understand TCF position.

Options

157 The TCF working party identified two main options and a third option, which is a combination of the first two. These options are set out below. It is anticipated that these could form the basis for an approach for achieving the objectives of the TSO, although the implementation detail might change.

NZ Police Comment:

Read and understood.

158 The generic options are:

- (a) Amended status quo;
- (b) Contestable provision of service;
- (c) Phased implementation.

NZ Police Comment:

Read and understood.

159 Options that failed to meet the design principles were screened out. A number of other exploratory options were identified and discarded, and these are set out below.

*NZ Police Comment:
Read and understood.*

160 All options aim to ensure service is provided to commercially non-viable customers. Other customers are commercially viable and it follows that these customers are open to competition either from other operators relying on Telecom's wholesale services, or operators with their own access infrastructure. Accordingly, in competitive areas there is no need to impose a TSO requirement, as the competitive process will efficiently deliver the services that customers demand. In fact, imposing a requirement on Telecom or any other operator to provide a TSO service in competitive areas will distort the market and thus reduce benefits to consumers.

*NZ Police Comment:
Read and understand TCF position. Police require all customers, both commercially viable and non-viable, to continue to have access to quality '111' services.*

Amended Status Quo

161 This option is a variant on the current system. It is based on a re-specified basic access service and the roll back of service obligations where the market is competitive.

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

162 Telecom remains the provider of last resort in non-competitive areas and the Commission seeks to model the required compensation (although this would not preclude multi-year specified amounts rather than yearly calculations).

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

163 This option is based on the principle that the TSO should be rolled back over time as competing networks increase their coverage and are able to provide a basic access service at or below the capped price. There is no TSO obligation where the market can be relied on to ensure the provision of a basic access service.

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

164 For the remainder of customers, Commission modelling would calculate compensation payable to Telecom using a technology neutral service standard. The Commission would have greater freedom to apply different technologies such as mobile technologies to its model reducing the number of uneconomic customers and the final quantum. Telecom would be permitted to deliver services using alternative technologies.

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

165 Over time, as Telecom reconfigured its network using lower cost technologies, it would be able to reduce its costs, removing its fixed network when it is timely to do so. However, Telecom continues to hold the provider of last resort obligation and it would expect that this is appropriately funded.

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

166 The model ensures that the TSO is focused on areas of concern, i.e. where a basic access service is unlikely to be provided by commercial interests.

*NZ Police Comment:
Read and understood. Also refer comment in Clause 160*

167 The approach ensures that the TSO is rolled back as competing infrastructure is deployed (and is capable of providing the defined service). This means that the degree to which companies are required to subsidise competing providers is minimised. Therefore, companies are encouraged to invest in their own infrastructure and competition is used to drive cost of provision down over time.

NZ Police Comment:

Read and understood. Also refer comment in Clause 160

168 Further, the focus remains on ensuring a specified level of service is available at a capped price. Where the market can best make price quality tradeoffs it is free to do so. The market can develop based on customer preferences. By ensuring that the service is a basic service and will not include broadband requirements, distortion of adjacent markets can be minimised.

NZ Police Comment:

Read and understood. Also refer comment in Clause 160

169 In terms of implementation, to make the most of this model, it requires that:

- (a) All providers are able to optimise, reconfigure and source network inputs to reflect the technology neutral specification and Commission modeling assumptions;
- (b) The possibility of removing PSTN based infrastructure in remote areas would also need to be seen as acceptable by customers. As the provider of last resort receiving a fixed multi-year amount, Telecom would have an incentive to seek lowest cost technology solutions. This would be likely to accelerate a move away from fixed networks in more remote areas where mobile, wireless and satellite technologies are more appropriate; and
- (c) Different TSO service levels and greater technology neutrality would be likely to reduce the subsidy needed to service commercially non viable customers.

NZ Police Comment:

Read and understand TCF position. The Police position remains that universal customer access to '111' is essential, at specified and agreed quality of service levels and cost.

170 The model ensures arrangements are focused on the provision of a basic access service. However, overlay providers may still be obliged to contribute to TSO providers. Lower cost technologies could be used, but it does not support contestability for the provision of underlying infrastructure. Telecom would still be the provider of last resort so this model is not competitively neutral.

NZ Police Comment:

Read and understand TCF position.

171 Further, the Commission would still be required to estimate the cost to provide service to inform an agreed TSO value. Accordingly, it may not be as efficient or transparent as other options as it may still require a Commission modeling process. This, by necessity, requires the calculation of the theoretical cost (based on assumptions) to estimate the cost to provide service. A tender process avoids the need for the Commission to calculate the cost.

NZ Police Comment:

Read and understand TCF position. However Police note that a core assumption is that providers would indeed offer a tender.

172 The proposal also raises implementation questions about how the TSO rollback would actually occur and on what basis. Options include:

- (a) having the Commission undertake a market analysis in different geographical areas. This would, however, be a time consuming task;
- (b) Using the Commission's modelling to discern areas where TSO obligations are not required, i.e. where there are no commercially non-viable customers because in commercially viable areas there will be either intermodal or facilities based competition or both.

NZ Police Comment:

Read and understand TCF position.

173 The Amended Status Quo option is not a material change from the current arrangements and merely seeks to resolve a number of unsatisfactory features of the current approach.

NZ Police Comment:

Read and understood. Also note comments in Clause 169.

Contestable provision of service

174 This option is based on the idea that customers who carriers do not wish to provide a TSO service to, at or below the current price cap, should be put out for tender. The successful tenderer would then be responsible for ensuring the provision of service to those customers. TSO funding would only go to that tender.

NZ Police Comment:

Read and understand TCF position. Police have no objection in principle to the proposal of a tender process providing it has guarantees that all "uneconomic" customers continue to have access to a '111' service at defined quality levels.

175 Operators who did not win the tender, including Telecom, would be free to reconfigure or withdraw network from tendered areas to minimise overall costs.

NZ Police Comment:

Read and understand TCF position. However, Police are concerned regarding potential public loss of access to '111' where it previously existed. Note comments in Clause 169.

Defining the Customer Group to be tendered

176 Telecom would identify residential customers that it no longer wishes to serve with a TSO level service and price cap. Telecom would present a list of the customers it will relinquish over the period of the tender. These would be customers outside the competitive areas discussed above, although not necessarily all of those customers.

NZ Police Comment:

Read and understand TCF position.

177 Tendered customers would not all have to be served at the start of the tender period, i.e. Telecom could relinquish different customers at different times over the tender period but they would have to specify the timing up front.

NZ Police Comment:

Read and understand TCF position.

178 Telecom would participate in the tender. However, if Telecom loses the tender it would be free to reconfigure or remove network and they would not be required to continue as the provider of last resort in that tender area. The tender is paid for by the industry.

NZ Police Comment:

Read and understand TCF position.

179 During the implementation phase, consideration needs to be given to:

- (a) Whether there should be any obligations to provide wholesale services e.g. whether Telecom could be released from an obligation to provide regulated wholesale services such as LLU in the tender area it lost (and thus will not be required to maintain network in that area) and whether the successful tenderer (including Telecom) should be required to provide a wholesale service on a non-discriminatory basis;
- (b) Arrangements in the event the tender fails. It is important to consider what would happen if Telecom was the only bidder in a tender process; and
- (c) Dealing with customers who may be unwilling to migrate to the successful tenderer.

NZ Police Comment:

Read and understand TCF position.

180 A contestable process gives the greatest transparency around the cost of serving a group of customers. It requires that carriers are willing to tender to ensure competition drives the cost down and service quality up.

NZ Police Comment:

Refer earlier comments. Police are concerned that there is an obligation to tender for providing (probably uneconomic) services.

181 There are risks in a contestable process for TSO liable parties with regard to a lack of certainty. Internationally, tender processes have had mixed success. This is due, in part, to a perceived inability of new entrants to compete effectively with the incumbent carrier who has existing infrastructure in the tendered regions.

NZ Police Comment:

Read and understood.

182 Further, it may be difficult for some TSO liable parties to support a contestability approach without some assurances from Telecom on the number of customers it is likely to put up for tender. The difference in potential liability and ability for other carriers to absorb between, for example, 10,000 customers and 60,000 is significant.

NZ Police Comment:

Read and understood.

183 Overall, the key protection for the parties is confidence that a contestable process will be contested.

NZ Police Comment:

Police has a concern that this option may not provide the contest assumed and that the outcome will result in compromised access to emergency services and/or lowered quality of service. Further there needs to be protection for the public should the successful tenderer prove not to be able to provide the services.

Staged Migration to a Contestable Approach

184 The Staged Migration option is based on the Contestable approach but seeks to phase-in components of the change over time. The staged approach provides time to fully consider the implementation issues that arise with the contestable model, while not delaying the benefits that can arise from implementing a new technology neutral standard.

NZ Police Comment:

Read and understand TCF position.

185 This option arose from the TCF working party reaching the view that a contestable model is likely to best achieve the desired policy outcome, while recognising that there will be planning and development required to implement contestability and ensure that the proposed process delivers the expected outcomes.

NZ Police Comment:

Read and understood.

186 The key phases would be:

(a) To agree across all stakeholders the detailed technology neutral definition. Once agreed, the defined service could be adopted for provision of service to TSO customers and could inform the current Commission TSO funding process;

(b) Detailed feasibility and design of the contestability model; followed by

(c) A phased implementation.

NZ Police Comment:

Read and understood.

Detailed specification of the basic access service

187 The detailed technology neutral specification would need to be agreed by all key stakeholders.

*NZ Police Comment:
Read and understood.*

188 Once agreed, that specification could inform discussions between the Crown and Telecom, in consultation with the industry, and be rolled in to the TSO arrangements for a defined period. This interim change would provide the immediate benefits of increased flexibility as to how the basic access service is delivered by Telecom, with possibly reduced costs to the entire industry.

*NZ Police Comment:
Read and understand TCF position.*

189 There could also be incentives for the industry to itself agree an annual cost (a “specified” amount under the Telecommunications Act), or alternatively the Commission could be empowered to issue a multi-year determination for the net cost for the contract duration. This would deliver improved certainty around TSO obligations and costs for all parties. Furthermore, it would reduce the time and cost to the industry and the Commission of debating the cost quantum on an annual basis.

*NZ Police Comment:
Read and understood. Also refer to comment in Clause 169.*

Detailed feasibility and design of the contestability model

190 The TCF expects that there will be increased certainty within the market as new technologies such as WiMax evolve, alternative suppliers such as satellite continue to develop capabilities, Telecom progresses its FTTN and NGN investments, and we continue to see New Zealanders themselves choosing different suppliers, brought about by improved competition.

*NZ Police Comment:
Read and understand TCF position.*

191 Furthermore, the TCF expects that the significant regulatory changes from the Telecommunications Amendment Act 2006 such as operational separation, access to local loop unbundling and sub loop unbundling will by then be embedded and the implications better understood.

*NZ Police Comment:
Read and understand TCF position.*

192 A phased approach would also allow the development of an appropriate tender process to reflect these market changes. This includes consideration of a regional or national tender, transition and migration of customers from Telecom to another supplier in the event Telecom did not win the tender.

*NZ Police Comment:
Read and understand TCF position.*

193 Such a period would also allow sufficient time for any legislative change that might be required.

*NZ Police Comment:
Read and understood.*

194 The contestable model would need to be implemented over time and further work required to ensure that the proposed process delivers the expected outcomes. For this reason, a staged migration to a fully contestable model may be a means of better achieving the desired outcomes. The transition could be phased to reflect expected development of the market.

*NZ Police Comment:
Read and understand TCF position.*

199 Two of these options involve a service obligation. Where there is a service obligation on one or more carriers to provide a TSO service, this does not mean the TSO service would have to be the only type of package offered. In order to minimise the impact on retail innovation brought about by the TSO, the carrier would be free to provide any other type of residential package that may or may not include free local calling, and may be cheaper or more expensive than the capped price of the TSO service.

*NZ Police Comment:
Read and understand TCF position.*

200 The options are:

1. To rely on current regulatory arrangements, including those set out in the Government's reform package – operational separation, UCLL and access to spectrum. In many areas carriers are deploying overlay networks and UCLL, at a regulated price, is available to new entrant providers. Although Chorus may be the only network provider in these areas, regulated access to UCLL and to Telecom Wholesale Services on an equivalent basis means that there is potential for facilities based competition in such areas. In addition, alternative networks may cover the majority of this group of customers in the medium term.
2. Telecom agrees that one of its plans will match the TSO service level and price cap. As with option 1, consideration of market power is separated from the provision of service to uneconomic customers. This would be simpler to apply. However, it places a requirement on Telecom that other providers do not have.
3. All carriers agree to provide a TSO like service at the price cap in areas where they provide coverage. Under this option, all providers offer a plan that matches the TSO service. On the face of it, this option would also be relatively simple to apply and has elements of competitive neutrality. However, it requires assessment of who is required to give an undertaking, and carriers may be unwilling to agree to this approach.

*NZ Police Comment:
Read and understand TCF position.*

Alternative approaches to funding the Basic Access Service

201 The proposed options put forward by the TCF primarily focus on the social objectives being delivered by the industry, where the true cost to provide the basic access service is not transparent to the consumer. The TSO regime hides the true cost to serve commercially non-viable customers by effectively requiring the TSO provider and funding contributors to absorb the cost of the TSO obligation.

*NZ Police Comment:
Read and understand TCF position.*

202 While the options discussed in this paper are consistent with the industry-funding model contained in the current TSO obligation framework, and the TSO Review appears to favour such an approach, the TCF notes that other funding options would equally, or in some instances better, deliver on the government's policy requirements from a social perspective.

*NZ Police Comment:
Read and understand TCF position.*

203 Such options include:

- (a) the costs for a TSO provider being recovered by way of a levy on all telecommunications customers. For example, the funding of the Electricity Commission is met through a levy on the general public's electricity bill;
- (b) the ability for a TSO provider to charge a customer the true cost of delivering service to an individual end-user. For those customers where that cost is above an "affordable" threshold, the government could subsidise those customers; or
- (c) central government funding for a TSO provider.

*NZ Police Comment:
Read and understand TCF position.*

204 Such alternative approaches are likely to deliver the same outcome and adhere to the principles espoused in this paper. Such options would reveal the true cost to deliver basic services to customers, rather than such costs being passed through indirectly to customers via the costs of telecommunications services as a whole.

*NZ Police Comment:
Read and understand TCF position.*

205 Furthermore, such options would ensure that the notion of competitive neutrality is adhered to – the object being to eliminate potential resource allocation distortions operating in a contestable environment, encourage fair and effective competition in the supply of goods and services and potentially give greater certainty to the industry.

*NZ Police Comment:
Read and understand TCF position. Also note comments in Clause 169.*

Options considered and rejected.

206 In addition to the options discussed in this report, a number of other options were considered and rejected. These included:

- (a) Placing a “connect on demand” requirement on all major providers; and
- (b) Establishing an Industry Consortium to serve commercially non-viable customers. This included consideration of the possibility of purchasing a satellite provider.

*NZ Police Comment:
Read and understood.*

K. NEXT STEPS

207 The TCF welcomes the views of stakeholders. We are particularly interested in the views of stakeholders, on the suitability of the proposed technology neutral basic access service and the various options for delivery of the TSO service.

*Police comment:
Noted*

208 Following feedback from stakeholders the TCF will finalise its views and make recommendations to Government.

*Police comment:
Noted*

209 We invite your feedback by 21 April 2008. Submissions should be emailed to TSO.Review@tcf.org.nz. For further information, please contact Ralph Chivers, TCF Chief Executive on (021) 576 424.

*Police comment:
This document provides the NZ Police feedback as requested.*

Comparison of the Options

The table below compares the various options. The Contestable option has been split into two sub-options, discussed in Section J of this Report.

| Option | Amended Status Quo (refer paragraph 162 to 174) | Contestable Options | |
|---|--|---|---|
| | | Contestable approach (refer paragraph 174 to 184) | Staged implementation (refer paragraph 185 to 196) |
| Based on re-specified basic service, technology neutral and no TSO obligation where there are sufficient competing services | Yes | Yes | Yes |
| Is there a roll back of service obligations (as competing networks increase coverage areas) | Yes | Yes | Yes |
| Who is the TSO Provider | Telecom | Successful tender | Telecom until a tender process |
| Is there compensation payable by industry to the TSO Provider? | Yes | Yes | Yes |
| How frequently is the amount of compensation payable reviewed and by what means | Annual review unless a multiyear term or specified value is agreed | Amount payable settled when Tender is successful. Tender period to be decided – possibly 3-5 years. | Annual review or multi-year period until tender process starts. |
| Who is the a Provider of Last Resort and, if so, who? | Yes, Telecom | In tender areas, the tender provider | Telecom until tender process starts. |
| Outside tender areas, is there a provider of last resort? | Yes, Telecom | No | No |
| How is the TSO Provider compensation calculated? | Modelled by Commission, or agreed specified value | Tender price | Revised Commission model, then tender process |
| How is TSO compensation allocated | Share of industry revenue calculated by Commerce Commission | Share of industry revenue calculated by Commerce Commission | Share of industry revenue calculated by Commerce Commission |

Definitions

Provider of Last Resort: means Carrier required to connect any customer within the bounds of the 2001 TSO with a TSO level service – except under options where the Provider of Last Resort requirement is removed in competitive areas.