

15 October 2007

TSO Review  
Information Technology & Telecommunications Policy  
Ministry of Economic Development  
P O Box 1473  
WELLINGTON

Dear Reg

## **Submission on the Telecommunications Service Obligations (TSO) Regulatory Framework Discussion Document**

1. The Telecommunication Carriers' Forum ('TCF') appreciates the opportunity to make a submission on the Ministry of Economic Development's ("MED") discussion document on the TSO regulatory framework ('the Discussion Document').
2. This submission is made on behalf of the TCF. TUANZ sits on the TCF Board and supports this submission.
3. There is a high degree of alignment amongst the TCF's members on the appropriate way to progress the issues set out in the Discussion Document. In addition, TCF members and TUANZ intend to make separate submissions to the MED on other aspects of that document.
4. The Discussion Document deals with two discrete issues:
  - a) the widespread availability of voice services at an affordable price ('the Local Service TSO'), and
  - b) the development of rural broadband.
5. We believe that the two issues can be dealt with separately. Accordingly, we have addressed each issue separately below.

## **Evolving Context of the Local Service TSO**

6. The Discussion Document sets out both economic objectives for telecommunications, including competition and innovation, as well as a social objective to provide for the widespread availability of telecommunications services at an affordable price.
7. These policy objectives are common in many jurisdictions and are supported by the TCF members. There is a minimum voice service that New Zealanders expect to receive at an affordable price. We believe that the objectives of the current Local Service TSO, however, can be met in a more efficient way that minimises the impact on competition and investment.
8. The original Kiwi Share Obligation (KSO) was established in 1990. The Local Service TSO effectively replaced key elements of the KSO in 2001. Since 2001, however, there has been significant change in the New Zealand telecommunications market. The rate of change appears to be increasing rather than decreasing.
9. At the time the KSO was established Telecom New Zealand (Telecom) was the dominant provider of telecommunications services. Telecom's PSTN network was the only feasible means of accessing voice services.
10. The market has changed. There is increasing levels of competition from other technologies, including satellite, cable, wireless and cellular. Many New Zealanders now have a number of options for their voice service. The most notable is the growth of the mobile telephone market - where consumers are choosing to change from fixed to mobile solutions. There is also a steady growth in other access technologies such as wi-fi and cellular based technologies. These technologies can be used to provide voice over internet protocol (VOIP) services. This will mean a growing proportion of consumers no longer want to have a traditional PSTN line to their premises.
11. The operational separation of Telecom and the development of local loop unbundling will further encourage market change.
12. These developments are challenging the way a basic telephone service is seen and the ways in which it can be provided. It is important that any service obligation meets social objectives while remaining flexible enough to cope with change and minimising any adverse impact on competition and investment. The TCF members believe that the current Local Service TSO is unlikely to meet this test and it is timely and appropriate to consider alternative approaches.

## **Proposal to Establish a TCF Local Service TSO Working Group**

13. We welcome the approach taken by the Ministry in its discussion document. It traverses the issues in a comprehensive manner and is genuinely open to wide ranging responses. We consider that a collaborative approach between the Government and TCF is most likely to deliver on the proposed policy objectives.

14. The TCF is well placed to develop and advise the Ministry and Minister on a workable industry way forward that minimises any impact on competition and innovation. Over the past year alone, TCF members have agreed and delivered a number of key outcomes, including non-price terms for new regulated services and a customer complaints scheme.
15. Accordingly, we recommend that a TCF Local Service Working Party be established. We would welcome the Ministry and Commerce Commission's participation in the Working Party. The TCF Working Party would report on a proposed solution to the Minister of Communications by April 2008. Should the Minister be receptive to this proposal, we believe it would be possible to agree and jointly announce terms of reference by early November 2007.
16. We suggest the Minister of Communications ask the TCF to report to him on:
  - a) recommended minimum industry standards that set out what New Zealander consumers should expect from a basic voice service. The proposed standard should be technologically and provider neutral, encouraging competition and innovation;
  - b) options to encourage competition and innovation in rural areas. While the industry cannot make a judgment on an appropriate level of affordability, we can inform the Government's thinking on what competitive offerings are realistically possible at different price levels;
  - c) options for ensuring a basic voice service continues to be widely available at an affordable price. The proposed options should remove elements of the current TSO approach which may adversely impact on competition and investment in the telecommunication industry;
  - d) a recommended transition plan towards the new arrangements.
17. The proposed minimum standard would complement the work already underway in the context of the TCF Emergency Services Calling Working Party and parallel Official's working group. Further, we believe the working party is unlikely to impact any broadband policy initiatives the Government may wish to progress.

### **Rural Broadband**

18. The TCF supports the intent of the Digital Strategy. Broadband services are widely considered to be an important enabler of economic growth and the development of a knowledge based economy. The Government has undertaken a number of initiatives to support the Digital Strategy goals.
19. Over time, broadband will be increasingly delivered over a number of different technologies. In addition to current DSL based broadband services, mobile and wireless operators are increasingly offering broadband services to rural customers. Indications are that competition will intensify as the market develops. For example,


as satellite broadband prices fall and additional radio spectrum comes available to wireless broadband providers (such as the 2.3 and 2.5 GHz bands).

20. Given the significant changes occurring in the broadband market, we believe it would be premature to consider a broadband TSO at this time. The Government already has a number of ongoing initiatives intended to improve broadband outcomes for New Zealanders, including the Broadband Challenge, the establishment of REANZ, project probe, and the upcoming 2.3/2.5GHz spectrum auction. In this context, a broadband TSO could be unnecessary and may have unintended consequences. A broadband TSO risks discouraging competition and locking in a specific type of technology.
21. There is widespread acceptance of the important economic benefits of broadband take up and performance. Internationally, it is common for Governments to encourage broadband through specific initiatives along the lines of the Government's Broadband Challenge. We believe that any broadband policy objectives, at this stage, are likely to be best met through specific initiatives such as the Broadband Challenge rather than a new broadband TSO.

#### **Next steps**

22. No part of this submission is confidential and the TCF would be happy for it to be made publicly available.
23. The TCF would welcome the opportunity to discuss this submission with the Ministry of Economic Development and the Minister of Communications.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Malcolm Alexander', followed by a period.

Malcolm Alexander  
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