

30 October 2009

Rural Broadband and TSO Reform
ICT Regulatory Group
Ministry of Economic Development
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TSO and RBI proposals

The Telecommunication Carriers' Forum ('TCF') appreciates the opportunity to make a submission on the Government's proposals. The Government has released two proposals for comment - TSO Reform and Funding Telecommunications Development and Rural Broadband Initiative (RBI). This is the TCF's submission on both proposals.

This submission is made on behalf of the TCF. There is a high degree of alignment amongst the TCF's members on the appropriate way to progress the issues set out in the proposals. In addition, TCF members intend to make separate submissions to the MED on other aspects of that document.

The Rural Broadband Initiative (RBI) proposal

As an industry, the TCF members support the Government's vision of extending fast broadband into rural New Zealand. The RBI proposal - based on investment in fibre to schools and backhaul - is a good first step that will bring material benefits to rural end users. The economics of providing broadband services to rural customers are challenging for private investors and Government support for investment is welcomed.

We note that to deliver on the anticipated benefits, however, the initiative will need to be complemented with substantive investment on demand side capability - including provision in Vote Education for investment in schools capability. It's equally important that support for users is transparently made available to augment investment in broadband capability.

The Government has proposed that direct government funding for rural broadband would be contestable and provided on a grants basis. We support the Government's proposed flexible approach to its financial contribution as a means of minimising the ongoing impact on broadband providers.

RBI implementation

The rural broadband targets set out at table 1 of the RBI proposal suggest that, on the face of it, the proposal does not anticipate satellite provision of super fast broadband for the most difficult to serve schools. However, a significant number of consumers are already using satellite based broadband services. More generally, the MED should be flexible to permitting any technology proposal that achieves the band-width speeds and service level targets envisaged under the RBI.

Further, there needs to be a focus on standards and taking a consistent approach across regions or the various Government broadband initiatives - including:

- consistency across regions is required to minimise the additional OSS/BSS costs brought about by the regional approach; and
- consistent service specifications to that used for UFB.

The Government has released its Invitation to Participate in [UFB] Partner Selection Process which includes service standards. The Government's UFB initiative and RBI proposal anticipate a number of local fibre and broadband providers. Under these circumstances it's even more important that a consistent approach is taken across all initiatives. The TCF is keen to work with the MED on the development of standards.

We further support the proposal that providers not be prohibited from also being retail providers. The characteristics of rural are such that RBI funded providers should be permitted to also operate at retail, provided the wholesale services they offer are provided on an equivalent basis irrespective of the wholesale customer's access technology (fixed, wireless and satellite) or organisation, i.e. Baycity, CallPlus, Woosh, TelstraClear, Vodafone and Telecom.

The Telecommunications Development Levy (the Levy)

The design of the Levy effectively puts the cost of funding the Government's policy onto the industry. From an economic perspective, it is unlikely that the industry could absorb the entire cost of the levy and ultimately the cost is likely to be worn by end user customers in some way.

Consistent with the good public funding principles and efficient taxation, the Government's economic and social policies are best funded by central government. There are strong public policy reasons for funding rural broadband service from general taxation rather than through an industry specific levy as has been proposed.¹ In short, general taxation principles indicate that a lower, broader tax is more efficient.

As the Government recognises in the discussion paper, extending broadband into rural outer areas benefit the economy and society as a whole. Given the benefits are broad, in principle the levy should be funded from as broad a tax base as possible.

¹ See CEG, Reforming Universal Service Policy, A report for GSM Europe, http://www.gsmworld.com/gsm europe/documents/uso_final_report_0208.pdf

If the Government chooses not to adopt central government funding, then the Government should implement a consumer levy. This has been recognised as less distortionary and we note that, in the UK, the Government has proposed a consumer levy as a means to fund upgrades to the network. Where the costs of the levy are likely to be passed on to consumers in some form in any case, this would provide a more transparent means of setting and recovering the industry cost.

In any case, the Government should broaden the definition of liable persons to capture the wider group of services provided over the funded infrastructure. For example, rather than be limited to providers with voice interconnection agreements, it should be expanded to cover all providers of telecommunications services such as data linking, and the range of entertainment, educational and communications services provided over the funded infrastructure. All of these providers benefit from the expanded infrastructure and customer reach, and as such should contribute to its development.

While it is important to capture a wide group of suppliers to minimise market distortions, we appreciate the difficulty of doing this when a number of participants - for example Google, Microsoft, YouTube - may be offshore based content providers. In which case, a demand side consumer levy as proposed is likely to be simpler to apply than supply side levies that should capture content providers.

In all cases, the Levy needs to be made transparent to the end consumer. In principle, the levy should be non-distortionary, equitable and transparent.

Implementing the Levy

The proposal anticipates 3 months notice of a liable persons funding obligations. We recommend that this should be more closely aligned with typical planning timetables in the industry and recommend a longer notice period.

Further, and consistent with good regulatory practice, the fund supported by the Levy should be for a defined purpose and the scope clearly articulated. As it stands, the anticipated outcomes from the Levy are open ended and not clearly defined. Funding requirements can then be considered against these requirements.

Any funds not required to achieve that purpose should be returned to contributors (whether this is consumer levies or liable persons). As the fund runs over multiple years, this could be through a reduced levy in subsequent years.

The Local Service TSO

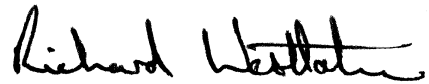
Finally, the TCF believes that, consistent with good regulatory principles, the local service definition should be made technology neutral to enable any TSO to be provided at least cost.

Next steps

No part of this submission is confidential and the TCF would be happy for it to be made publicly available.

The TCF would welcome the opportunity to discuss this submission with the MED.

Regards

A handwritten signature in black ink that reads "Richard Westlake". The signature is written in a cursive style with a long, sweeping underline.

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