

20 August 2013

TSO Review Team
Ministry of Business Innovation & Employment
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Dear Minister

Review of the Local Service TSO

The New Zealand Telecommunications Forum (“TCF”) welcomes the opportunity to comment on the Minister’s discussion document on the Review of the local service TSO. We understand some of our members will also be making their own submissions in relation to this Review.

The TCF supports review of the TSO, and supports the statutory terms of reference for the review contained in section 101A of the Telecommunications Act 2001. We consider that it is important for review of any regulation that imposes costs on infrastructure providers to consider issues such as impact on competition, ability of service providers to receive a reasonable return, and incentives and capabilities of service providers to invest.

The local service TSO or KSO retail tariff control was first introduced in 1990 to facilitate the privatisation of Telecom New Zealand and introduce competition into New Zealand’s communications markets. When the TSO was first put in place Telecom had a ubiquitous monopoly on residential telephony and, by default, New Zealand household communication.

It is now 23 years since the TSO tariff control was introduced and the demerger of Chorus from Telecom has resulted in the access and service parts of the TSO being split between the two separate companies.

The New Zealand communications market is now in the midst of significant change with the government partnering with local fibre companies and Chorus to rollout fibre-to-the-home ultra-fast broadband (UFB) to 75% of the country and also supporting further cabinetisation and rural wireless broadband to 98% of the New Zealand population as part of the Rural Broadband Initiative (RBI).

These initiatives are also complemented by the following networks: the legacy copper local coop network with regulated third party access, three mobile networks, HFC cable, Wireless WiFi and WiMax network providers and Satellite networks.

This makes at least some aspects of the TSO such as dial-up internet speed requirements and ‘free’ local calling redundant and unnecessary. For example, 98% of the population will have access to internet in excess of 5 Mbps compared to the TSO requirement that “95% of all existing residential lines meet the 14.4 kps” connection speed.

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The development of competition since 1990 in New Zealand's communications market has encouraged investment and innovation with service providers increasingly offering new services, service bundles and tariff innovation.

The TCF is of the view that where the competitive process can deliver a market outcome then consumer protection may no longer be warranted by the local service TSO.

The TSO/price regulation is accordingly only required where it does not meet the test for competition in Part 4 of the Commerce Act.

The TSO is not the appropriate mechanism for addressing supply issues for the remaining 2% outside the UFB and RBI areas. The TCF would not support extension of the TSO. If coverage is a concern in these areas then this should be addressed outside the TSO process by a government supply side initiative (such as RBI).

Please don't hesitate to contact me if there is any aspect of this feedback you would like to discuss further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'DS', with a large, stylized 'O' and a trailing '2'.

David Stone
CEO
New Zealand Telecommunications Forum (TCF)