TCF submission to the Economic Development, Science and Innovation Committee

Telecommunications Amendment Bill

24 December 2025

Introduction

1. Thank you for the opportunity to make a submission on the Telecommunications Amendment Bill. This submission is provided on behalf of the New Zealand Telecommunications Forum (TCF).

2. The TCF is the telecommunications sector's industry body which brings the industry and key stakeholders together to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent over 90 percent of New Zealand telecommunications customers. Our members include network operators, retail service providers and the companies that own and operate cell towers.

Submission overview

3. The TCF is generally supportive of the Bill, but we have concerns about some of the provisions concerning dispute resolution and the telecommunications development levy. These include:

    a. **The $50 million threshold for joining a dispute resolution scheme**: setting the bar this high could leave many consumers without access to dispute resolution, and is not necessary to ensure competition. We recommend removing the revenue threshold.

    b. **An unintended expansion in scope for dispute resolution services:** extending the remit to "any matter related to retail service quality" without reference to codes of practice would leave dispute resolution services without a framework to assess disputes. We recommend removing this proposed addition.

    c. **A new information gathering power for the Commerce Commission**: we recommend the power not apply where an entity is already a member of a dispute resolution scheme.

d. **The telecommunications development levy**: if the ability to set the amount of the levy is to move from primary to secondary legislation, we submit the methodology for calculating the levy should also be set through regulation. The regulation making powers should be drafted to require adequate consultation with industry.

Threshold for joining a dispute resolution scheme

4. Clause 33 (new section 240A) provides that service providers are only obliged to become a member of an industry dispute resolution scheme if they earn gross annual revenue of $50 million or more. We are concerned that setting the bar this high could leave many consumers without access to dispute resolution, contrary to the Government's policy intent to make dispute resolution available to more consumers. The table on page six of this Commerce Commission report provides an indication of the number of service providers that would not have to belong to a dispute resolution scheme at the $50 million threshold.

5. As noted in the Cabinet policy paper, around 200,000 consumers do not have access to an industry dispute resolution scheme, and this can lead to poor consumer outcomes[1]. The policy intent is to make dispute resolution available to those who are missing out. Perversely, the proposed revenue threshold could result in fewer operators being members of a dispute resolution service than today, consequently increasing the number of consumers without access to an industry dispute resolution scheme and the additional protections offered.

6. Putting the $50million revenue threshold into legislation will effectively act as a brightline test, signalling government expectations. It will send a message to providers that the Government doesn't think dispute resolution is important or required for all consumers, and could result in companies that are currently members leaving dispute resolution schemes.

7. Cabinet initially agreed to set the threshold at $10 million, to ensure there is still a low barrier to entry to the telecommunications market, and support competition and innovation [CBC-24-MIN-0124 refers]. In the Cabinet LEG paper the Minister changed the threshold to $50 million, to reduce the risk of negatively impacting medium sized businesses. This threshold is not necessary to reduce barriers to entry into retail telecommunications markets or to reduce the burden on smaller operators because:

    a. New Zealand telecommunications markets are already highly competitive. Entrants seeking to establish themselves in fixed or mobile markets have clear paths to entry through wholesale arrangements with existing network operators. To the extent that an entrant is pursuing a more extensive entry strategy, a requirement to join a dispute resolution scheme is likely to be immaterial. The cost to join a dispute resolution scheme is minimal as set out in paragraph 8 below.

    b. In terms of regulatory burden, New Zealand (unlike other markets) requires entrants into retail markets to meet very few *ex ante* conditions. New Zealand does not have a list of general conditions that all retail market operators must comply with, unlike

[1] https://www.mbie.govt.nz/dmsdocument/30531-improving-telecommunications-regulatory-and-funding-frameworks-proactiverelease-pdf, page 4.

the UK for example. As such, the requirement to join a dispute resolution scheme would operate as an extremely limited condition of entry and continuing operation, so should be applied universally to all operators.

8. The existing industry dispute scheme, Telecommunications Dispute Resolution (TDR) has a tiered model with appropriately priced membership for all sizes of organisations[2]. All TCF members who provide customer services are required to be a member of TDR. The TCF's Customer Care Code applies to all TDR members.

Gross telecommunications revenue	Annual charge for retail members	Annual charge for third party scheme member (non-retail)
<$5 million	$250	$250
$6 million	$2,202	$418
$20 million	$7,339	$1,394
$50 million	$18,347	$3,485
$80 million	$29,356	$3,485
$100 million	$36,695	$6,970

9. We recommend that the revenue threshold be removed from the Bill, to ensure all consumers have access to dispute resolution. Requiring membership of a dispute resolution service would have little impact on the level of competition. Paying to belong to a dispute resolution scheme is a valid cost of entry into the market, and as can be seen from the table above, the levy is appropriately priced. For example, telecommunications service providers with revenue up to $5million pay only $250 per year. However, if the Government decides to proceed with a revenue threshold, then the $10 million initially agreed to by Cabinet[3] would be more appropriate.

[2] Information in the table below has been provided by Telecommunications Dispute Resolution Limited.
[3] CBC-24-MIN-0124 refers.

Changes to the scope of dispute resolution schemes

10. The TCF has some concerns about the changes that have been made to the provisions concerning the scope and purpose of dispute resolution schemes and scheme providers. We understand these were made to make it easier for additional dispute resolution schemes to emerge, but the changes have inadvertently removed certainty about the matters that can be considered and the framing of dispute resolution schemes.

The reference to retail service quality

11. Clause 34 provides a replacement for section 241(1), which lists the types of disputes that can be referred to a dispute resolution scheme. These are:

    a. Rights and obligations under a Commission code

    b. An industry retail service quality code to which the service provider is a signatory

    c. Any other matter related to retail service quality.

12. Similar amendments have been made to clause 36 concerning the purpose of a dispute resolution scheme.

13. We think some material change has inadvertently been introduced in both clauses through the addition in (1)(c) of "any other matter related to retail service quality". Retail service quality is a very expansive concept that could capture any activity performed in or affecting retail markets, products or services. If not linked to specific requirements set out in an industry or Commission code, there is no certainty for consumers, industry or dispute resolution services about what is in scope.

14. The TCF submits that subsection (1)(c) be deleted from both provisions.

The provision on the purpose of a scheme provider should include reference to codes

15. Clause 37 (which replaces section 248 concerning the purpose of a dispute resolution provider) removes references to codes. For example the purpose of the scheme provider is to investigate consumer complaints and investigate disputes. Section 248 of the Act currently provides that complaints, disputes and enforcement be related to codes.

16. The problem is that scheme providers will need to have a code or codes to frame the scope of the dispute resolution scheme. While we appreciate that the drafters may have been seeking to address the situation that emerging dispute resolution schemes may not have been involved in the development of existing codes, codes are an important guide to what consumers can expect and to the jurisdiction of a dispute resolution scheme, bringing certainty for consumers.

Proposed amendments

17. The TCF proposes that:

    a. The reference in subsection (1)(c) of clauses 34 and 36 re "any other matter related to retail service quality" be removed.

    b. Reference to codes be included in the amended section 248 (clause 37). We recommend the Committee seek advice from MBIE on options for addressing this issue.

Commerce Commission power to require information to verify revenue

18. Clause 4 (new section 10B) provides a power to the Commerce Commission to require service providers to supply information to verify revenue, for the purpose of determining whether they must belong to a dispute resolution scheme.

19. This power should not apply in circumstances where a service provider is already a member of a scheme. This will avoid unnecessary compliance burdens, such as responding to Commission requests for information to verify whether a provider should be a member of a scheme when they are already a member.

The telecommunications development levy

20. Clause 8 inserts new section 85B which will enable the Government to change the amount of the telecommunications development levy (TDL) via regulation rather than through primary legislation.

21. The power to set the amount of the levy should ideally remain in the primary legislation, to ensure the accountability and oversight provided through the parliamentary process. However, if the power to set the amount moves to secondary legislation, the methodology should also move to a regulation making power, for consistency.

22. To compensate for the loss of the parliamentary process, the regulation making powers should be drafted to require adequate consultation with industry. Consideration of the implications for end users and cost benefit analysis should be undertaken before the levy is increased.

A regulation making power for the methodology

23. The TCF submits that the Bill should create a regulation making power to change the methodology for calculating the TDL. The rationale is that the amount of the levy and the method for calculating it are related issues. If the Government is going to move the ability to set the amount to secondary legislation, to avoid the need for a time consuming legislative process, a similar process is needed to set the methodology. Otherwise we could have a situation where the government of the day uses the regulation making power to increase the levy, but when the method needs to be adjusted there will be a much longer timeline, and no legislative vehicle.

24. A Ministry for Regulation (MFR) review of the telecommunications sector[4] has been looking at the TDL methodology and is likely to propose changes. The current methodology is expensive to administer (requiring bespoke accounting and external auditing), unnecessarily complex, not aligned with Treasury and Auditor General Guidance on good levy design, and not transparent (making it difficult for operators to be transparent with their customers about how the levy contributes to the cost of services).

25. Providing a regulation making power to change the methodology would enable any MFR recommendations that the Government decides to accept to be actioned in a timely way. The regulation-making power could be drafted so that the current methodology remains in place until regulations are made to change it.

Closing remarks

26. The TCF would welcome the opportunity to speak to this submission when hearings are held. In the meantime, please contact kim.connolly-stone@tcf.org.nz if there are any questions.

[4] Telecommunications Sector Regulatory Review | Ministry for Regulation