



Telecommunications Users Association of New Zealand Inc.

(TUANZ)

Broad list of issues - Telecommunications Act Review

18th February 2015

TUANZ

1. The Telecommunications Users Association of New Zealand (TUANZ) has been in existence for over 27 years, advocating for the continued improvement of the use and supply of telecommunications technology and services to all end users of such services. We have always advocated that connectivity, and fast connectivity will enable businesses to improve productivity, and to deal far more efficiently with well-connected customers. Families, wherever they live, will become far better connected. Smart young Kiwis will be much more attracted to living here rather than overseas. The world's capitals will be on our electronic doorstep, while we will become earlier adopters of leading-edge services like fibre-powered television on demand and the widespread use of cloud services for businesses such as on-demand accounting and file storage.
2. TUANZ is a not-for-profit membership association with over 140 members, predominantly large organisations with a strong dependency on telecommunications technology as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

Our Paper

3. TUANZ appreciates the opportunity to provide the Ministry for Business, Innovation and Employment (MBIE) with our early thoughts on the possible issues to cover during the upcoming review of the Telecommunications Act. We intend to approach this in line with our values of positive leadership, credibility and collaboration.
4. In this brief paper, we outline a suggested high level list of issues that we believe should be canvassed. The detail of each issue would be worked out during the review process managed by MBIE.
5. The summary list of our issues is as follows:
 - a. We should have an aim of a on-going world class communications network supporting our economic growth and social development

- b. Our services must be competitive with like nations
 - c. Funding of user groups to enable credible input
 - d. The need for a TSO and the services included post 2020 should be debated
 - e. Urban and Rural planners need to consider Telecommunications as a basic infrastructure along with roads and water
 - f. Fair and sustainable competition at the service level should be the focus to encourage continued investment in infrastructure
 - g. The costs of civils needs to be reviewed to ensure efficient deployment
 - h. The access to private property, particularly multi-occupied premises should be easier
 - i. The continued convergence of delivery over telecommunications infrastructure should lead to a review of the alignment of regulation and regulator of the sectors
 - j. The question of de-commissioning the urban copper networks
 - k. The Product disclosure regime needs to be tightened up
 - l. Independent dispute resolution should be mandated or at least heavily encouraged
6. We have seen and support the submissions by Internet NZ and Consumer - and there are similarities in the approach and issues raised by all three parties.

General Approach

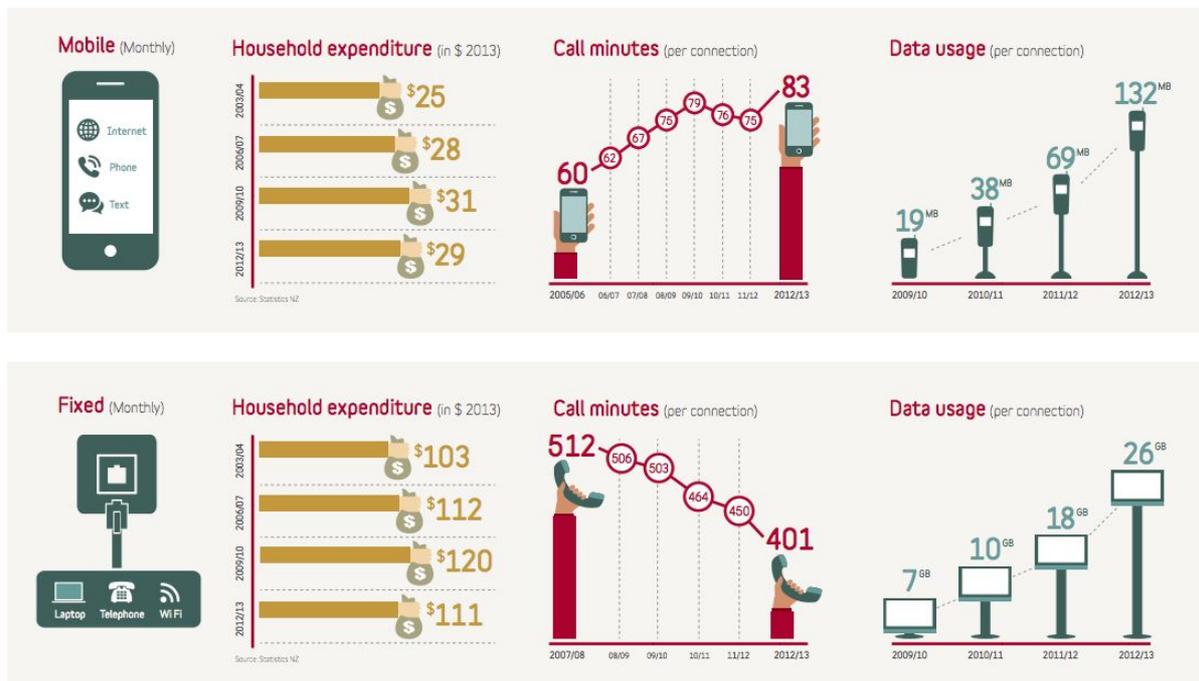
- 7. In the early years of the twenty first century, the underlying principle within the Telecommunications Act was the promotion of infrastructure competition - and the so-called 'ladder of investment'. Competition at all levels, particularly at the infrastructure level would drive innovation, and investment for the benefit of end-users. There was a general feeling that prior to these changes in 2001, the incumbent had been consistently under-investing in the sector.
- 8. Since those changes and the 2006 amendments that led first to the creation of the Chorus business unit then the de-merger of Chorus

from Telecom (now SPARK), investment has been significant in both fixed and mobile technology.

Figure One: How telecommunications is changing our lives

How telecommunications is changing our lives

Consumers get more for their money



Source: Commerce Commission (2014), 2013 Annual Telecommunications Monitoring Report.

- This incremental approach since 2001 has generally been positive for the telecommunications market in New Zealand as seen in Figure One above. Investment has continued, and been undertaken by players other than the incumbents (for example the investments by Orcon and CallPlus (now merged) in DSLAMs to take advantage of UCLL). TUANZ is supportive of the current market structure and keen to see it allow such things as structural separation to fully bed in. We support incremental change as required to this structure in the next period of review.

10. This review was inserted into the 2011 amendments (s157AA) to take “account of the market structure and technology developments and competitive conditions in the telecommunications industry at the time of the review, including the impact of fibre, copper, wireless, and other telecommunications network investment.”
11. By 2020 it was expected that:
 - a. fibre services would be the predominant new fixed-connection type
 - b. the Government UFB project would be completed
 - c. the Crown Fibre contracted fibre pricing would cease to apply
 - d. the UFB network would become available for unbundling at the layer 1 level
 - e. wireless technology would be advanced enough to offer reasonable competition to fixed services
 - f. copper may continue to provide some further competition where needed including rural connectivity
12. The proposed review was to commence in 2016 to ensure that the relevant changes and required legislation were well debated and in place to provide the structure for the telecommunications market post 2020 and the end of the Crown Fiber / LFC contracts.
13. We look forward to the considered and fact-based discussion and debate on the review. We believe that given the time available the scope should be broad enough to ensure adequate discussion on the issues we identify in the next section of this paper.

Scope

14. The issues raised below are indicative of our early thoughts on the items that should be canvassed through the review process. They are unlikely to be exhaustive.
15. **One: We should have an aim of a world class communications network supporting our economic growth and social development.**

- a. The current UFB and RBI projects are world leading in the delivery of infrastructure. If we desire to continue to lift the digital competency of our economy and encourage new and innovative export opportunities then we need to have a national goal to maintain our world leading communications infrastructure. One of the key planks of any regulatory framework must be to balance the requirement to deliver fair competition for end users, but also to ensure the investment engine is sustained.

16. Two: Our services must be competitive with like nations.

- a. The current legislation has within it clear principles of promoting competition for the benefit of end-users. This principle should remain.
- b. New Zealand businesses now compete in a global market and it should be the Government's aim that the basic telecommunications services available here should be at least competitive and if not better than like nations. This will also enhance our ability as a nation to develop world leading light touch export businesses.

17. Three: Funding of user groups to enable credible input.

- a. Ensuring credible and fact based submissions on important issues around telecommunications is critical to the robust debate on the issues. The resources that the current user bodies represent pale in comparison to those available to the large telecommunication companies.
- b. In Australia the peak body, the Australian Communications Consumer Action Network (ACCAN) undertakes advocacy and representation for consumers of telecommunications services. It is funded by the Commonwealth Government under the Telecommunications Act 1997. This funding is received from charges on telecommunications carrier

- c. We believe that this model should be implemented in some form within New Zealand to ensure a strong and credible voice for users. It may be appropriate to include this within the current Telecommunications Development Levy.

18. Four: The need for a TSO and the services included post 2020 should be debated.

- a. Currently Chorus and Spark are both subject to undertakings around the delivery of TSO services. This is limited in its application however and is generally focused on the provision of voice and low speed data services at an affordable and uniform price. Since the development of the TDL this is also self-funding by the two companies.
- b. We believe the role of the current TSO should be debated and its future included as part of the post 2020 framework. Questions of its applicability, its application to which market participants, and whether it should include any minimum standards of service performance should be included in the review.

19. Five: Urban and Rural planners need to consider telecommunications as basic infrastructure along with roads and water.

- a. Current urban and rural planning processes do not appear to consider telecommunications as a basic infrastructure. Planners tend to focus on land availability and then providing roads, electricity and water services as the infrastructure required for development.
- b. Increasingly however, telecommunications are critical services for social and business requirements no matter where people are located. We strongly suggest that it should be considered that the provision of these services be a mandatory planning requirement.

20. Six: Fair and sustainable competition at the service level should be the focus to encourage continued investment in infrastructure.

- a. The ability to innovate requires that the cost of accessing the networks is not a barrier. This means continued transparency on the wholesale pricing of access given the monopoly nature of that element of the network. We believe the framework should encourage competition at the deepest level in the network where it is efficient and sustainable to do so.
- b. Given the size of the country and the investment capital available, the issue of network sharing beyond the point in the network identified above should be a guiding principle.

21. Seven: The costs of civils needs to be reviewed to ensure efficient deployment.

- a. In our position we consistently hear from the network developers that the costs of civil construction make up a disproportionate amount of the costs of deployment.
- b. In the consultation document released by the UK Government in 2014 ("Digital Communications Infrastructure Strategy, August 2014), the costs of civils was identified as one of the four main issues around ensuring continued investment in network infrastructure. They identified the costs of rating, the compliance costs and the approval of uses of technology such as micro-trenching as issues to be resolved within this area. In New Zealand this could also include such things as the use of the national deployment standards, and the review of the Resource Management act processes.

22. Eight: The access to private property, particularly multi-occupied premises should be easier.

- a. All parties within the telecommunications industry agree that accessing Multi Unit Complexes (MUCs) remain one of the biggest operational issues in delivering fibre services. The general belief is that there are an ever increasing number of MUCs which could receive UFB services but very few are actually connected.
- b. Variations re legal ownership structures make getting consent difficult and RSPs tell us that they are avoiding marketing to these potentially lucrative opportunities.
- c. We believe that this is a significant barrier to SMEs taking up services which could enable their businesses to develop.
- d. We continue to urge the Government to look at legislative relief for this situation including the option of opt-out consent processes.

23. Nine: The continued convergence of delivery over telecommunications infrastructure should lead to a review of the alignment of regulation and regulator of the relevant sectors.

- a. Convergence is happening on an increasing scale in the industry as RSPs look to innovative approaches to reducing churn and increasing ARPU. The two largest players in the market both offer bundled quad-play offerings with varying degrees of value.
- b. As more OTT players enter the market, and the current broadcasters continue to look at alternative forms of delivery, we believe it is time to look at alignment between the sectors and removal of such things as differing approaches to content classification which place different costs and complexity on different players.
- c. The aim should be to ensure end-customers see increased choice and competition on how they receive content.

24. Ten: The question of de-commissioning the urban copper networks.

- a. 2014 saw a marked change in the residential customer perception of UFB services. Prior to then, there was generally low awareness of UFB and little “demand pull” from customers. RSP’s advice is that this changed in 2014 due to the following:
 - i. much higher awareness as the build neared 50% completion
 - ii. post install satisfaction driving word of mouth demand
 - iii. increased levels of marketing activity from RSPs
 - iv. the arrival of various OTT content services.
- b. RSPs anecdotal advice is that they are seeing conversion rates of up to 70% when marketing UFB based services to existing copper customers. However, the push on VDSL has made the low end 30 Mbps service challenging but the \$10 premium to upgrade to 100Mbps is becoming less of a barrier.
- c. As this market shift continues to gain momentum, TUANZ believes that there should be a discussion on the possible decommissioning of urban copper networks post 2020 to ensure continued uptake of the new networks, but also to reduce the cost overhead on the network owners. This has TSO implications which should be resolved in any redefinition of the current TSO.

25. Eleven: The product disclosure regime needs to be tightened up.

- a. Product Disclosure remains a key issue to be fully resolved. The ability for users to make informed choices in what is often a complex market is vital for competition to remain strong in the sector and is often hampered but the paucity of information and difficulty in making comparisons.
- b. Whilst the TCF has made some valuable progress in this regard, we believe the continued development of a standardised disclosure regime would assist users to make informed choices.

- c. Consumer NZ in their letter, point to their experience in regards to customer complaints and the failure of companies to adequately disclose information as one of the factors which gives rise to these complaints.

26. Twelve: Independent dispute resolution should be mandated or at least heavily encouraged.

- a. The current dispute resolution service is a voluntary process and works reasonably well within its remit.
- b. However, the voluntary nature means that significant number of consumers are not covered by an independent dispute resolution process. We are of the view that the possibility of making membership of some such scheme compulsory should be considered as part of gaining the right to operate as an RSP.
- c. As a minimum however, there should be a concerted push to raise awareness of the scheme amongst users.

Concluding comments

- 27. TUANZ welcomes the opportunity to provide MBIE with its initial view on the possible issues that we consider should be included in the upcoming Telecommunications Act review. This paper introduces some of these issues and we look forward to being part of the debate and discussion going forward.

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