



To	Hon David Seymour, Minister for Regulation Hon Paul Goldsmith, Minister for Media and Communications		
Title	Updated draft Terms of Reference and draft Cabinet paper for Telecommunications sector review	Number	MFR2025-086
Date	2 May 2025	Priority	High
Action Sought	Agree draft Cabinet paper and draft Terms of Reference	Due Date	6 May 2025
Contact Person	Peter Clark, Manager, Regulatory Reviews	Phone	§ 9(2)(a)
Contact Person	Maria Spencer, Senior Advisor, Reviews and System Capability	Phone	§ 9(2)(a)
Attachments	Appendix A: draft Cabinet paper and revised draft terms of reference Appendix B: stakeholders contacted for targeted engagement Appendix C: themes from targeted engagement	Security Level	IN CONFIDENCE
Consultation	MfR undertook targeted engagement on the draft Terms of Reference with the groups identified in Appendix B , and consulted with the Ministry of Business, Innovation and Employment and the Commerce Commission on this briefing, the draft Cabinet paper, and the revised draft Terms of Reference.		

Proactive release note:

Appendix A is available on the Ministry for Regulation website: <https://www.regulation.govt.nz/assets/Publication-Documents/CBC-25-SUB-0010-Terms-of-Reference-for-the-Telecommunications-Sector-Regulatory-Review.pdf>



Recommended Action

	<i>Minister for Regulation</i>	<i>Minister for Media and Communications</i>
We recommend that you:		
a note that Cabinet noted the next regulatory sector review will focus on the telecommunications sector and invited you to present terms of reference to Cabinet for approval [CAB-25-MIN-0098 refers].	<i>Noted</i>	<i>Noted</i>
b note that your office has agreed that the Cabinet paper will be considered at EXP Committee on 20 May.	<i>Noted</i>	<i>Noted</i>
c note that you directed the Ministry for Regulation to undertake targeted stakeholder engagement on the draft terms of reference.	<i>Noted</i>	<i>Noted</i>
d note the key themes from targeted stakeholder engagement are detailed in Appendix C and are reflected in the revised terms of reference attached to the draft Cabinet paper at Appendix A .	<i>Noted</i>	<i>Noted</i>
e note we have received limited feedback to date from consumer groups, and will update Ministers' offices on this as received.	<i>Noted</i>	<i>Noted</i>
f note that the methodology for calculating the Telecommunications Development Levy alone could be considered as part of the review.	<i>Noted</i>	<i>Noted</i>
g agree the content of the draft Cabinet paper and the revised draft terms of reference.	<i>Agree / Disagree</i>	<i>Agree / Disagree</i>
h note that the Ministry for Regulation will undertake agency consultation on the draft Cabinet paper and draft ToR in parallel with Ministerial consultation.	<i>Noted</i>	<i>Noted</i>
Minister for Regulation alone:		
i agree to undertake Ministerial consultation on the draft Cabinet paper and draft terms of reference, once your feedback has been addressed.	<i>Agree / Disagree</i>	
j agree to refer this briefing to the Minister for Finance, Minister for Rural Communities and the Parliamentary Under-Secretary to the Minister for Media and Communications for their information.	<i>Agree / Disagree</i>	

Proactive release note:

Appendix A is available on the Ministry for Regulation website: <https://www.regulation.govt.nz/assets/Publication-Documents/CBC-25-SUB-0010-Terms-of-Reference-for-the-Telecommunications-Sector-Regulatory-Review.pdf>



**Minister for
Regulation**

**Minister for Media
and
Communications**

Minister for Regulation and Minister for Media and Communications:

k **agree** that the Ministry for Regulation release this briefing, the Cabinet paper and terms of reference for the review after Cabinet decisions have been taken.

*Agree /
Disagree*

*Agree /
Disagree*

S 9(2)(a)

Peter Clark

Manager, Regulatory Reviews
Ministry for Regulation
Date: 2 May 2025

Hon David Seymour

Minister for Regulation

Date:

Hon Paul Goldsmith

Minister for Media and Communications

Date:



Purpose of Report

1. Provide you with a draft Cabinet paper and updated terms of reference (ToR) for the telecommunications sector review following targeted stakeholder consultation for your consideration and feedback (**Appendix A**). **Proactive release note:**
Appendix A: Refer to the note above.

Background

2. On 7 April, the Ministry for Regulation (MfR) provided you with draft terms of reference (ToR) for a regulatory review of the telecommunications sector [MFR2025-073 refers].
3. You agreed that MfR should proceed with targeted stakeholder engagement on the draft ToR without defining the scope other than the following matters, which you agreed were out of scope:
 - the Telecommunications Development Levy (TDL)
 - the Radiocommunications Act 1989 (radio spectrum)
 - the Telecommunications (Interception Capability and Security) Act 2013
 - the vertical separation of wholesale and retail fibre services that applies to Chorus and the other local fibre companies.

Feedback from the targeted stakeholder engagement

4. Following your announcement of the review, the Ministry for Regulation initiated targeted stakeholder engagement. We invited 22 stakeholders to provide feedback on the draft ToR by 28 April and have received responses from 12 of those stakeholders to date. A list of the stakeholders we contacted is provided in **Appendix B**.
5. We are following up with those stakeholders who have not responded and will provide an update if there is any substantive late feedback that should be brought to Ministers' attention.
6. The high-level themes from the responses we received, and how we have considered potential changes to the draft ToR, are provided in **Appendix C**.

Draft Cabinet paper and proposed terms of reference

7. Attached for your consideration at **Appendix A** are a draft Cabinet paper and updated ToR for the review. These have been informed by our understanding of what Ministers have agreed and the themes from targeted stakeholder engagement on the draft ToR.
8. In addition to the areas that were previously agreed as out of scope, we are recommending the following areas are also out of scope, for the associated reasons:
 - the Resource Management Act 1991, given the significant reform program already underway; and
 - the Commerce Commission's ongoing Copper Services Investigation, so as to not delay this existing deregulation review.



9. The draft ToR also notes that, on the basis of stakeholder feedback received to date, the review is likely to focus on the following areas:
 - Shareholder cap and constitutional restrictions;
 - Consideration of telecommunications service obligations;
 - Retail Service Quality (RSQ) regulation (Part 7 of the Act);
 - Fibre Fixed Line Access (FFLA) services regulation (Part 6 of the Act); and
 - Fibre service regulations (Part 4AA of the Act), noting that the vertical separation of wholesale and retail fibre services is out of scope.
10. Additional areas beyond those identified in paragraph 9 may also be assessed as part of the Review, provided they are within the set scope.

Telecommunications Development Levy

11. Many stakeholders proposed that the TDL be considered as part of the review. Views on the TDL were broadly grouped into one of two areas:
 - considerations for the ongoing need for the levy and the scope of what the funding can be used for; and
 - the significant compliance costs associated with how the levy is calculated.
12. Reflecting previous decisions, we recommend that the TDL broadly remains out of scope, however we believe there is merit in considering the methodology for calculating the TDL alone as part of the review. Given that significant compliance costs were raised through engagement, this would provide an opportunity to identify any lower-cost ways for this to be undertaken. If preferred for inclusion, we will amend the draft ToR and Cabinet paper appropriately.

Next Steps

13. We will make further changes to the draft Cabinet paper and proposed ToR, at Joint Ministers' request, ahead of and subsequent to Ministerial and agency consultation, which will occur concurrently.
14. We understand the Minister for Regulation's office will lead Ministerial consultation on the Cabinet paper. This is expected to be undertaken between 7 May to 14 May to achieve the 26 May date to present the ToR to Cabinet for approval.



15. The proposed forward timeline is:

7 - 14 May	Ministerial and agency consultation
15 May	Lodgement
20 May	EXP Committee
26 May	Cabinet

16. Given their expected Ministerial interests in the Review, we recommend that this briefing be referred to the Minister for Finance, Minister for Rural Communities and the Parliamentary Under-Secretary to the Minister for Media and Communications for their information.



Appendix A: draft Cabinet paper and revised draft Terms of Reference

Proactive release note:

Appendix A: Refer to the note above.



Appendix B: Stakeholders and agencies consulted on draft Terms of Reference

Group	Response received
2degrees/Vocus	Yes
Amazon Kuiper	Yes
Chorus NZ	Yes
Consumer NZ	No
Contact Energy	No
Deaf Aotearoa	No
DECA - Digital Equity Coalition Aotearoa	No
Enable Fibre networks	Yes
Federated Farmers of New Zealand	No
New Zealand Relay Services	No
Northpower Fibre Ltd.	Yes
One New Zealand	Yes
Rural Women New Zealand	No
SpaceX	No
Spark NZ	Yes
TCF - NZ Telecommunications Forum Inc	Yes
Telecommunications Dispute Resolution Services	Yes
Tū Ātea	Yes
TUANZ - Technology Users Association of New Zealand	No
Tuatahi First Fibre	Yes
Utilities Dispute Resolution Services	Yes
WISPA – Wireless Internet Service Providers Association	No



Appendix C: Key themes of what should be included in scope and other feedback

Key themes	How the theme is reflected in the Terms of Reference
Barriers to competition, innovation, and investment	This will be examined as part of the first principles framework and examination of the regulatory design. (ToR paragraph 19)
Modernisation and technological neutrality	The proposed scope includes examination of the current regime's ability to keep pace with market and technological developments, with a view to achieving enduring technology-neutral regulation. (ToR paragraph 9)
Regulatory powers and roles under the Telecommunications Act 2001	This will be examined as part of the review of regulatory design. (ToR paragraph 9)
compliance and administrative requirements for existing providers	This will be examined as part of the first principles framework and examination of the cost and benefits of regulation. (ToR paragraph 19)
Functionality of complaints resolution framework	This will be examined as part of the review of regulatory design. (ToR paragraph 9)
Levies and funding mechanisms, including the TDL	<p>Levies and funding mechanisms will be examined, generally, as part of the review of regulatory design and practice. (ToR paragraph 9)</p> <p>The TDL is expressly out of scope of the review, though noting potential consideration of the methodology of the TDL. (ToR paragraph 10)</p>

[Continued on next page]



Suggested exclusions from scope	Response to feedback
<p>One stakeholder commented the copper Standard Terms Determinations and Telecommunications Service Obligation should be excluded from scope because existing reviews are underway that are likely to deliver removal of these regulations sooner. Instead, MBIE should be supported to deliver necessary outcomes as swiftly as possible.</p>	<p>We have proposed that “the Commerce Commission’s ongoing Copper Services Investigation” be out of scope of the review. (ToR paragraph 10)</p>
<p>One stakeholder commented that current work underway by other parts of Government should be excluded because the decision-makers are ultimately the same people (Cabinet). It is inefficient and confusing to have two Ministries consider the same areas.</p>	<p>The Ministry for Regulation does not agree this should automatically be excluded. Work recently announced or already underway is identified in Appendix A of the draft Terms of Reference. The review seeks to complement work already underway.</p>
<p>One stakeholder commented that Part 7 of the Telecommunications Act is working well and should be excluded from the scope of the review.</p>	<p>While this view was expressed by one stakeholder, many others expressed counter views that this should be included.</p>