# Briefing

*MFR2025-147*

Ministry for Regulation
Te Manatū Waeture

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| To | **Hon David Seymour, Minister for Regulation** | | |
| Copy to | **Hon Paul Goldsmith, Minister for Media and Communications** | | |
| Title | **Results of targeted engagement for telecommunications regulatory review** | Number | **MFR2025-147** |
| Action Sought | **Note** the contents of this paper<br>**Refer** a copy of this paper | Due Date | **11 July 2025** |
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| Attachments | **Yes – Appendices A and B** | Security Level | **IN CONFIDENCE** |

## Purpose

1. To provide information regarding the outcomes of the targeted engagement for the Telecommunications Regulatory Review (the Review). This information will now be used to inform the Review's key findings and options.

## Recommended Action

We recommend that you:

a. **note** the contents of this briefing

b. **refer** a copy of this briefing to the Minister for Media and Communications

## Background

2. On 3 June 2025, Cabinet approved the Terms of Reference for the Review (TOR) [CAB-25-MIN-0010].

3. Phase One of the engagement strategy, as outlined in the forward plan [MFR2025-119], focused on direct engagement with stakeholders to inform the development of regulatory options. Phase Two will be public consultation on the final options, which is scheduled to begin the final week of August 2025.

## Engagement Approach

4. From 9 to 30 June, the Review team engaged with 19 stakeholder groups and businesses, primarily through online meetings. These included broadband retail service providers, local fibre companies, satellite providers, wireless internet service providers, mobile virtual network operators, industry bodies, consumer and user groups, and dispute resolution organisations. A full list is provided in **Appendix A**.

5. Engagement is still pending with Rural Women and Federated Farmers. Consumer NZ and Business New Zealand indicated they will engage during the public consultation phase.

6. Follow-up meetings are now being arranged to clarify specific feedback and examples provided during initial discussions. Information to inform the costs and benefits is also being sought from stakeholders.

7. The Review team is reviewing all information received and will seek further information from the Ministry of Business, Innovation and Employment (MBIE), the Commerce Commission (Commission) and other relevant parties to independently verify the issues raised.

## Key Outtakes

8. Stakeholder feedback has been grouped into six overarching themes:
   - Regulatory burden
   - Open access and competition
   - Rural connectivity
   - Simplification and transparency of levies
   - Consumer protection and dispute resolution
   - Technology neutrality & support for emerging technologies.

9. The themes are further grouped by the areas of inquiry that were specifically identified as in scope of the Review as indicated in the TOR.

10. Stakeholders generally agreed that regulation is necessary for the telecommunications sector and noted both areas for improvement as well as aspects of the regulatory framework that are functioning well.

### *Areas for improvement requiring further inquiry*

11. There was consistent support for targeted refinements to remove outdated or burdensome regulations that hinder innovation and investment, and whose costs appear to outweigh their intended benefits.

12. Stakeholders often disagreed on what aspects of the regulatory framework were burdensome or needing change. In general, regulated parties tended to support aspects of the framework that did not directly affect them, while expressing concerns about regulations that did.

13. Larger stakeholders and smaller stakeholders often had different views. For example, there were many different views about the Retail Service Quality guidelines – whether they stifle innovation or are beneficial and supportive of fair competition. There was similar disagreement regarding information requests – while some smaller providers said they were manageable, and even beneficial, larger providers found them burdensome and costly.

### *Positive stakeholder feedback*

14. There were positive comments about MBIE related to regulatory support and several positive comments about the Commission, particularly from smaller providers who mentioned the Commission works with them to ease disclosure requirements and treats them equally to larger companies.

15. International providers, drawing on their experience across multiple jurisdictions, offered comparative insights. They expressed positive views about New Zealand's regulatory framework, describing it as reasonable from a compliance standpoint. One noted that, among the many countries they operate in, New Zealand's system is among the most advanced. They highlighted transparency, predictability, and well-established processes as key strengths, and remarked that New Zealand is welcoming to new technologies and investors.

## Summary of Stakeholder Feedback

16. While not exhaustive, the table in **Appendix B** details a range of stakeholder perspectives, which sometimes conflict due to their differing interests. Some feedback provided is also out of scope of the Review, including that regarding:

- Resource Management Act 1991 – barriers to infrastructure deployment
- Radiocommunications Act 1989 – access to radio spectrum
- Vertical separation of wholesale and retail fibre services
- Specific projects that could be funded by the Telecommunications Development Levy (TDL).

17. These issues will be referred to the appropriate agencies. For completeness, they have been included in Appendix B to reflect the range of matters expressed through the engagement.

18. Information provided in Appendix B does not reflect the Review team's analysis, which will be provided to you in August.

## Direction of Travel

19. Due to the semi-structured nature of the engagement discussions, feedback received from stakeholders generally aligned with the Review team's analytical workstreams. These workstreams are based on the submissions received during the targeted engagement on the draft TOR.

The workstreams are:

- Fibre regulation (excluding wholesale/retail vertical separation)
- Telecommunications Service Obligations (TSOs)
- Retail Service Quality (RSQ) regulation
- Levy methodology
- Monitoring and information-gathering powers.

20. Stakeholders also raised some new issues, including:

- Regulatory burden of legacy reporting obligations relating to the provision of copper services, which are being phased out
- Impracticality of processes related to obtaining an exemption from the restrictions on providing services above Layer 2 and providing end-to-end services.

21. The Review team is now conducting research, analysis, and clarification of stakeholder feedback in preparation for briefing ministers on potential findings and options in August.

22. Noting that not all issues raised by stakeholders will be able to be addressed, initial insights suggests that several areas warrant deeper exploration, including:

- Considering the merits of phasing out the TSO, recognising declining service demand
- Considering simplifying the methodology for determining the telecommunication levies
- Considering reducing the layers of fibre regulation, specifically overlapping constitutional, contractual, and legislative regulation of local fibre companies, including removing redundancies within the regulatory framework and with other legislation (for example, the Overseas Investment Act 2005)
- Considering how the Commission implements its information gathering powers under the monitoring provisions of the Telecommunications Act 2001, excluding information gathering in connection with compliance investigations
- Considering how regulatory burden can be lessened, where possible, with a specific focus on publication of information and the RSQ provisions.

## Next Steps

23. We will be providing our first substantive analysis to Joint Ministers in the first week of August, prior to Ministers meeting on 13 August. This advice will include a summary of key issues, findings, and initial options to inform the upcoming public consultation, due to begin in the final week of August.

## **Appendix A:** Stakeholder summary

From 9 to 30 June the Review team engaged with stakeholders though multiple online and in-person meetings. The table below identifies the type of stakeholder groups that met with us.

| **Type of Stakeholder Group** | **Invited** | **Met** |
|---|---|---|
| Broadband retail service providers | 4 | 2 |
| Dispute resolution groups | 2 | 2 |
| Energy retailers offering broadband | 2 | 2 |
| Industry groups | 4 | 3 |
| Local fibre companies (LFCs) | 4 | 4 |
| Mobile virtual network operators | 2 | 1 |
| Rural consumer groups | 2 | 0 |
| Satellite service providers | 2 | 2 |
| User & consumer groups | 4 | 2 |
| Wireless Internet Service Providers | 1 | 1 |
| **Total** | **27** | **19** |

The review team met with the following stakeholders:

- Amazon Kuiper
- Chorus
- Contact Energy
- Enable
- Mercury
- New Zealand Relay
- Northpower Fibre
- NZ Technology Forum (TCF)
- One NZ
- Primo
- Rocket Mobile
- SpaceX
- Spark
- Technology Users Association of New Zealand (TUANZ)
- Telecommunications Dispute Resolution
- Tuatahi First Fibre
- Tū Ātea / Māori Spectrum Working Group
- Utilities Disputes Ltd (UDL)
- Wireless Internet Service Providers Association of New Zealand (WISPA)

**Appendix B:** Thematic Summary of Stakeholder feedback

**Note:**

- This table is not comprehensive as we are still conducting follow-up meetings and receiving written submissions.
- It includes a wide range of feedback from different stakeholders, with some directly conflicting views heard. The intent of this summary is to reflect the diversity of opinions, not to suggest that there is a shared position.
- Not all concerns raised will be able to be addressed by the Review.
- The information presented does not represent the Review team's analysis of the issues, which will be provided in August.

| **Theme: Regulatory burden** |
|---|
| ***Fibre regulation*** |
| **Fibre Fixed Line Access Services (FFLAS - Part 6)**<br>• Price Quality requirements for Chorus are functioning adequately<br>• Information Disclosure requirements:<br>    ○ Compliance requirements need to be streamlined<br>    ○ Should be targeted and proportionate with smaller providers submitting less detailed data<br>    ○ Creates noise and inefficiencies (e.g. extensive pricing disclosures for small customer segments, need for specialist staff to manage compliance)<br>    ○ Monthly and ad hoc requests from different Commission functions are disruptive<br><br>**Duplication / Overlapping frameworks: Fibre Deeds (Part 4AA) and FFLA (Part 6)**<br>• The Fibre Deeds were originally useful for enabling collaboration but now parts are redundant with Part 6, which adds complexity<br><br>**Fibre unbundling (Layer 1)**<br>• Uneconomic due to high costs and operational complexity, virtual unbundling (bitstream access) could be more viable and cost-effective<br>• Technologically and economically impractical due to network design<br>• Vestige of historic 'ladder of investment' approach to network competition, superseded by utility regulation framework<br>• Risks of cherry-picking high-value areas and leaving others underserved<br><br>**Business line restrictions [Out of Scope]**<br>• Impede competition and innovation to meet changing technology and consumer demand |

- Prevent fibre wholesalers from offering customer support services to improve customer experience with fibre

**Constitutional restrictions**

- Are outdated regulatory controls that overlap with Fibre Deeds and Telecommunications Act
- Legacy constraints that limit ability to innovate and expand
- Ministerial approval required for many common corporate functions, slow and uncertain
- Changes are slow and expensive - must use MBIE lawyer - could do same in-house for no cost with lawyers on staff

**Shareholder Cap & Government Share**

- Ownership restrictions create uncertainties and disincentivise investment

**Regulatory Design**

- Definitions of “non-retail” and “telecommunication services” need clarity on where the line between retail and non-retail sits
- Business line restrictions go further than necessary to preserve the retail / wholesale structural separation

***Monitoring and information gathering***

- Reporting and oversight designed in 2011 related to structural separation of Telecom is now unnecessary, driving compliance overhead without benefit

**Annual monitoring report**

- Have high compliance costs: preparing, auditing, and submitting data required in specific formats
- Reporting requirements are extensive and often misaligned with outcomes-based regulation

**Repetitive and overlapping data requests**

- Multiple overlapping regulations require similar data reporting
- Changes can be costly and time-consuming, often with short timeframes, often straining limited resources
- Data requests are increasingly manageable but still burdensome due to frequent changes
- Support having a centralised register for customer switching data to improve access to data, transparency, and competition
- Current reporting is manageable but appears to lack strategic insight as the requirements change annually

- Data requests are sometimes rebranded (e.g., rural connectivity study) without clear rationale
- Most requests are reasonable

**Challenging data requests**
- Fault data not collected uniformly across industry *[This is because smaller providers and wireless providers do not hold this information.]*
- Some data collected raise privacy concerns

**Value to End-users**
- Data like average town-level usage is not meaningful to individual consumers
- Service availability maps are often a year out of date and potentially misleading
- Commission does not appear to assess the cost of data collection against consumer benefit

**Benefits to providers**
- Encourages better internal data collection and business intelligence
- Helps smaller providers gain visibility and credibility in national policy and funding discussions
- Benchmarking reports valuable for comparing performance and demonstrating competitiveness

***Retail Service Quality***

**Interventions**
- Threshold for intervention appears low (and unpredictable) in practice
- Limited transparency around evidence of problem magnitude before regulatory action (for example, debt and affordability)
- Providers not always consulted or asked to provide data to inform monitoring (for example, switching data)
- The Commission's evolving role may need clearer boundaries regarding the scope of future RSQ investigations

**Layering and inefficiencies**
- Commission issues guidelines that the Telecommunications Forum converts into industry codes, creating a layered and indirect regulatory structure, which is less effective and lacks enforcement clarity

**Impact for end-users**
- Customers often ignore or forget the mandated information, suggesting a misalignment between regulatory requirements and consumer needs
- Some compliance-heavy requirements have negligible impacts on user experience (for example, broadband marketing)

- Broadly support the intent of the early RSQ interventions but see diminishing returns for end-users from continued work in this area
- Some interventions feel justified (for example, bundling regulation)

**Compliance costs**

- Changes often involve staff training and can involve updating internal and user-facing retail infrastructure (websites, apps, billing mechanisms, etc.)
- Some changes are cyclical and require continuous investment
- Some changes are challenging and resource intensive for smaller providers, who may not have efficient systems for actioning changes at scale

## Theme: Open access and competition

***Fibre Regulation***

**Geographically consistent pricing (GCP)**

- intended as a cross-subsidy to support rural users, inhibits rural expansion by making urban pricing less competitive
- only applies to a single provider, which distorts competition
- needed to curtail anti-competitive behaviour (e.g. undercutting and price manipulation)
- support for maintaining GCP, prevents targeting specific regions with aggressive pricing that could distort competition
- Without GCP protections, fears delayed or ineffective Commission intervention

**Anchor services**

- Irrelevant as competition and the market ensure basic service availability and reasonable prices and constrain on other fibre services
- Drives overheads and risk of revisions impacts business

**Fibre unbundling**

- No uptake of Layer 1 unbundling, outdated
- Facilitates cherry-picking of high value areas by large retail providers improving their margin but offering no benefit to consumers

**Substitution and competitive constraint**

- Insufficient consideration of competition in regulatory decisions
- Fixed wireless provides competitive constraint (e.g. switching) in UFB regions, deregulate Part 6
- Regulator does not view wireless services as substitutes for fibre despite market evidence showing consumers are selecting alternative broadband products (e.g. fixed wireless) due to economic pressures (i.e. lower cost)

**Deregulating fibre**

- Strong support for maintaining vertical separation **[Out of Scope]** and non-discrimination obligations
- Against deregulating LFCs in ways that could harm market fairness
- Open access model is a success, credits fibre regulation for enabling competition and innovation
- Copper should be deregulated, it's outdated and burdensome **[Out of Scope]**, but fibre should remain regulated to ensure affordability and prevent anti-competitive pricing
- LFCs have overbuilt in areas already served by regional providers, undermining local investment

***Retail Service Quality***

- Standardisation and prescriptive service models may reduce differentiation and competition among providers

**TCF codes not unilateral across the sector**

- Larger telecommunication businesses are generally TCF members and therefore comply with codes
- Smaller/new market entrants often are not members and do not comply

**RSQ interventions can help ensure fair marketing practices without heavy-handed enforcement**

- Retailers have and exercise significant influence over consumer choices
- Where retailers exploit marketing practice (e.g., broadband marketing), wholesalers and consumers may be disadvantaged
- Support for RSQ codes as a way to ensure consistency across providers, minimum standards, and protections for consumers

**Theme: Rural connectivity**

***Telecommunications Service Obligations***

**Legacy obligations and outdated requirements**

- Compliance obligations (e.g. open access) for legacy systems no longer provide consumer benefit but impose significant cost
- Supports fax and dial-up internet, which are obsolete and no longer in demand
- Causes customer confusion because rural customers do not understand why outdated services are still required

**Universal service and redundancy**

- Need for universal service in underserved areas, improves safety and access to essential services

- With copper removed, rural users lose a backup communication method; customers want redundancy (e.g., fibre + Starlink) but often won't pay for both
- Need to ensure accessibility for Deaf users, who face systemic barriers in communication, education, and employment. TSO model supports universal accessibility but limits the ability to identify and support users proactively

**Market (technology) competition and opportunities**

- Concerns about replacing TSO - mandating large providers to serve all addresses could undermine smaller wireless ISPs.
- Current fibre rules deter rural expansion by local fibre companies, inhibiting competition
  - Want to explore ways to expand fibre into rural and vulnerable communities including partnering to replace copper with fibre
  - Potential in providing backhaul for wireless providers in remote areas
- Significant rural and regional coverage exists
  - Mobile, fixed wireless, and satellite (e.g., Starlink) - offer viable substitutes for voice and broadband
  - MVNOs offer a cost-effective alternative, especially for low-data users or those facing high setup costs for satellite or RBI services
  - Satellite broadband supports VoIP, direct-to-mobile satellite voice services are expected within 1–2 years, pending satellite network expansion. Satellite services may be cost-prohibitive for lower-income users. Starlink is attractive due to price and independence, but it doesn't offer voice services directly

## Theme: Simplification and transparency of levies

***Telecommunications Development Levy & Telecommunications Regulatory Levy***

**Complexity and administrative burden**

- Process for calculating the levies is overly complex and burdensome
- Requires companies to provide financial information different from the information compiled for annual accounts
- Bespoke accounting and external auditing is costly and seen as excessive
- For smaller providers the auditing cost can exceed their portion of the levy
- Stakeholders support simplifying the levy structure (e.g. flat per-connection charge or percentage of retail revenue)

**Uncertainty and unpredictability**

- Unable to forecast future levy amounts as levy liability depends on each company's relative performance compared to their competitors. This makes business planning harder.

- Uncertainty about which revenue streams are in scope for the levy (for example, whether undersea cables are in scope or not).

**Transparency**

- Levy complexity means it is hard to communicate to consumers how much of their invoice is due to the levy
- A simpler system would help make the levy more visible to consumers on bills, similar to electricity/gas sectors
- The levy lacks clear reporting on how funds are used, unlike levies in other sectors (e.g., dairy)
- Concerns over proposals to make levy adjustments easier without corresponding transparency
- Prefer levy collected directly from end users via billing, improving transparency and reducing administrative burden

## Theme: Dispute resolution and consumer protection

***Dispute resolution schemes***

**Industry preference for dispute resolution mechanisms**

- Legal routes are more costly and less efficient for both consumers and providers
- Tribunal decisions vary widely and lack consistent telecom sector knowledge (e.g., prepaid vs. postpaid plans)
- Cases must meet a high threshold where consumers raise issues under general consumer legislation (e.g., under the Fair Trading Act and the Consumer Guarantees Act)
- Dispute resolution schemes are more navigable and accessible for vulnerable consumers

**Utilities Disputes Limited (UDL)**

- Ombudsman-style model, which has benefits including an independent board, transparent processes, and regular independent audits
- Can deal with a broad range of issues, and offers higher liability caps
- Applies the Consumer Guarantees Act and Fair Trading Act principles without enforcing them, making resolution cost-effective for all parties
- Does not handle TSO-related complaints, or complaints regarding copper withdrawal or 111 services, as these are covered under Commerce Commission codes
- Consolidating dispute resolution schemes in the electricity sector improved outcomes

**Telecommunications Dispute Resolution Scheme (TDRS)**

- Industry codes applied by the TCF typically set higher standards than general consumer legislation

- Applies industry-specific expertise, can help identify systemic consumer issues, and as an industry scheme, can influence provider behaviour
- The TCF has a shareholder interest in the TDRS, however the governance of the TDRS is independent and budget decisions have not influenced the operations of the TDRS
- Industry feel the TDRS is proportionate and balances independence, quality, and affordability
- The cost of cases through the TDRS can be significant for small providers; some smaller providers may resist mandatory TDRS membership due to the costs
- Customers can escalate issues directly to the TDRS by ticking a box, which denies providers the opportunity to resolve issues and is administratively burdensome

**Opposition to mandatory dispute resolution schemes**

- Have observed inefficiencies in comparable overseas models (e.g. Australia's Telecommunications Industry Ombudsman) – general consumer protection laws are relevant and adequate

***Retail Service Quality***

**RSQ framework supports dispute resolution**

- While there are consumer protections under generic legislation (such as the Fair Trading Act and the Consumer Guarantees Act), the mechanisms for using these protections are not accessible, cost-effective, or timely for individual consumers
- Specific RSQ interventions have been important for addressing consumer misinformation / information asymmetry and have helped incentivise fair practice by industry

**Enforcement challenges**

- Many consumer protections are covered by voluntary TCF codes.
- New entrants like Starlink often don't join the TCF, avoiding these standards, which creates inconsistency and gaps in consumer protections.

**Theme: Technology neutrality and support for emerging technologies**

***Telecommunications Service Obligations***

**Technology focused**

- Forces Chorus and Spark to maintain outdated systems which leads to unnecessary operational complexity and cost
- Should be retired or modernised to reflect current technologies and market conditions
- Should move from subsidizing infrastructure to supporting digital inclusion and customer migration to modern technologies.

**Challenges migrating end-users to new technology**

- For example, Teletypewriter is outdated technology used by a small, aging population, some with cognitive and physical barriers, who often cannot transition to newer technologies due to age, health, or digital illiteracy

## Other feedback

**Time and cost of spectrum and site licenses [Out of Scope]**

- Takes too long to obtain site and spectrum licenses
- Fixed wireless is expensive to deliver due to infrastructure and spectrum costs – not always able to get the spectrum needed to deliver the last mile