Briefing Paper

MFR2025- 148

Ministry for Regulation
Te Manatū Waeture

To	**Hon David Seymour, Minister for Regulation**		
Title	**Telecommunications Review Initial Options**	Number	**MFR2025-148**
Date	**7 August 2025**	Priority:	**Medium**
Copy to	**Hon Paul Goldsmith, Minister for Media and Communications**		
Contact Person	**Peter Clark – Manager, Regulatory Reviews**	Phone	S 9(2)(a) [redacted]
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Attachments	**Yes – Telecommunications Review Initial Options Presentation**	Security Level	**IN CONFIDENCE**

Recommended Action

We recommend that you:

a	**note** that we have provided you with an update on the draft findings and initial options being considered by the Telecommunications Review	*Noted*
b	**note** that you are meeting with the Minister for Media and Communications on 13 August to discuss the Review	*Noted*
c	**note** that a public consultation on the options will open in late August and run for 4 weeks	*Noted*
d	**note** that we will provide you with further advice on our draft recommendations in early October, following the public consultation	*Noted*
e	**agree** that this briefing is not pro-actively released until the Review is concluded as the Telecommunications Review is still in progress	*Agree / Disagree*

S 9(2)(a) [redacted]

Peter Clark Manager – Regulatory Reviews Ministry for Regulation Date: 7 August 2025	Hon David Seymour **Minister for Regulation** Date:

Purpose of Report

1. We are providing you with an overview of the draft findings and initial options being considered by the Telecommunications Review. This will inform your meeting with the Minister for Media and Communications on 13 August, and provide the basis for options that the Ministry will publicly consult on.

Analysis

2. The Review has undertaken initial engagement with industry and other relevant groups (MFR2025-147 refers), and relevant agencies including the Ministry of Business, Innovation and Employment (MBIE) and Commerce Commission. The review has also looked widely at regulatory practices internationally and in other domestic industries. We have used this information to develop some preliminary findings and options for consultation.
3. The Review has focused on several workstreams:
    a. Telecommunications Service Obligations (TSO) – regulations intended to ensure that rural communities have access to essential services.
    b. Retail Service Quality (RSQ) – consumer protection regulations.
    c. Fibre – regulations specific to fibre providers.
    d. Levies – the methodology for determining the levies charged on the industry.
    e. Information and monitoring – how the Commerce Commission monitors the industry and information that industry is required to provide them.
4. At a high-level, our options are focused on simplifying the regulatory system, making it resilient and adaptable in the face of technological change whilst ensuring it is proportionate and supports competition.
5. Our draft findings and initial options are set out in **Appendix A**.
6. The Review is continuing to collect data to inform our quantitative analysis. This is likely to be concentrated on a cost benefit analysis of the options for the TSO and RSQ regulations, as these are the areas that we believe it will be most feasible and beneficial to undertake quantification.
7. At this stage we are not recommending preferred options. We will provide further advice with recommendations for each area of the review once we have completed our analysis. This includes factoring in the results from the public consultation, quantitative analysis and further engagement with MBIE and the Commerce Commission.

Agenda for the Joint Minister's Meeting

8. You are scheduled to meet with the Minister for Media and Communications on 13 August to discuss the Telecommunications Review. We propose the following agenda for the meeting:

    a. Draft findings and initial options – MfR officials to lead a discussion through the slides [**Appendix A**].

    b. Feedback from Joint Ministers for the Review team to consider.

    c. Public consultation approach.

    d. Next steps.

Next Steps

9. Public consultation on the options will run for 4 weeks from late August to late September. As part of the consultation, we will proactively seek out feedback from stakeholders that we have yet to receive engagement from, such as Rural Women, Federated Farmers and Consumer NZ.

10. Following the public consultation, the Ministry will be completing our analysis and Report. The forward milestones are set out in the following table.

Timing	Next Step
Early October	The Review will provide advice on draft recommendations
Late October	The Review will provide its draft report and Cabinet paper
November	The Report and Cabinet paper will be finalised
2 December	Cabinet Expenditure and Regulatory Review Committee (EXP)
8 December	Cabinet

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Telecommunications Regulatory Review

Initial Options

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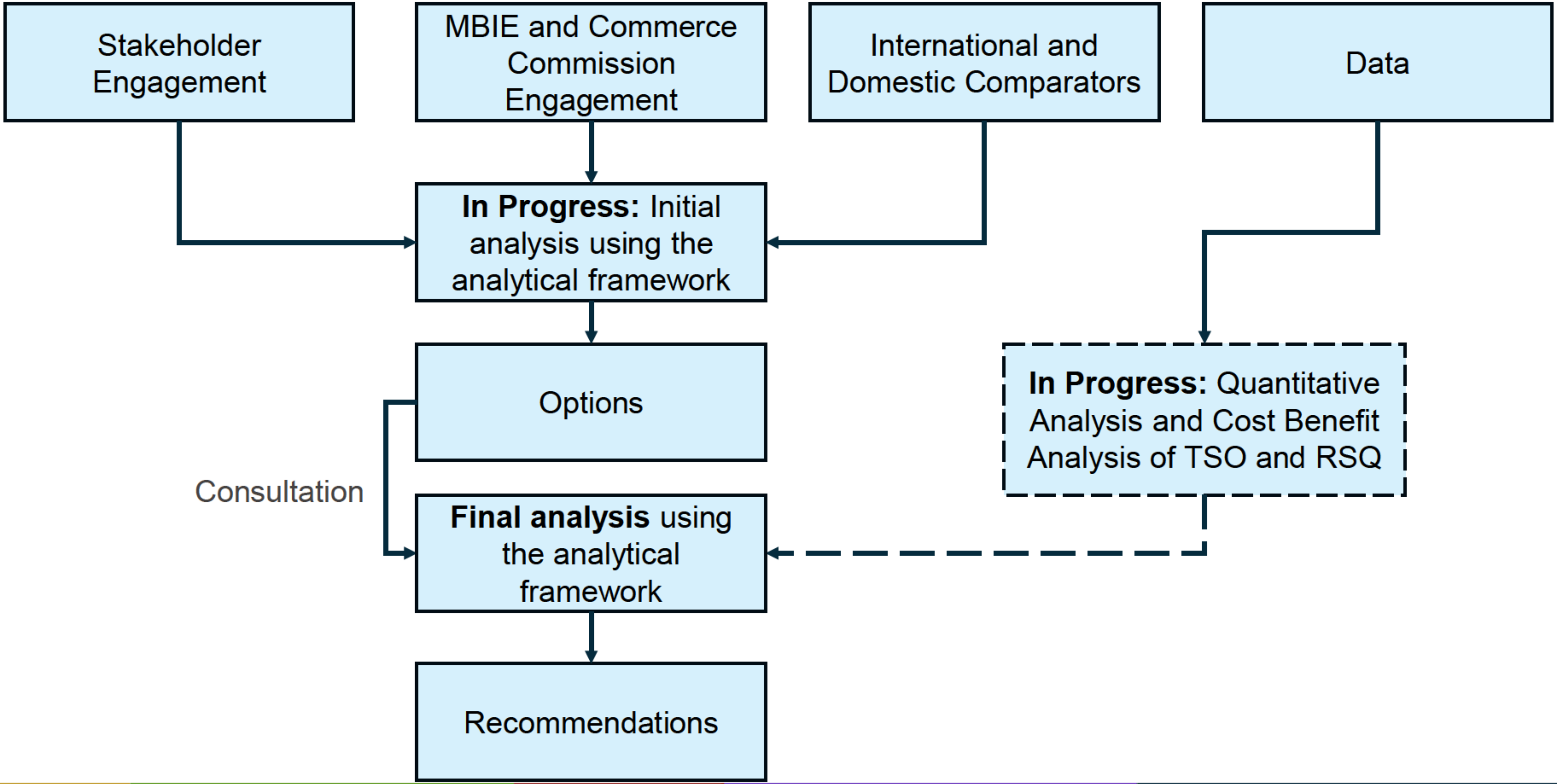
Structure of the discussion:

- Methodology used
- Overall messages – the regulatory system is working well but we have identified possible areas for improvement
- Areas for possible change based on our initial analysis
- Next steps for the Review

Methodology



What we've heard from stakeholders is working well

Practice of Regulatory Bodies: MBIE received praise for its regulatory support and the Commerce Commission was commended, especially by smaller providers, for easing disclosure requirements and treating all providers equitably.

General: International providers, drawing on their experience across multiple jurisdictions, expressed positive views about New Zealand's regulatory framework, describing it as reasonable from a compliance standpoint.

Fibre: The open access model is credited by industry stakeholders with enabling competition and innovation.

Fibre: The regulated party noted that the Price Quality regulation (which only applies to them) is appropriate in principle and did not need to be a considered for this review due to the existing deregulation framework around it.

Dispute Resolution: Dispute resolution schemes were praised for providing better outcomes than legal routes, especially for vulnerable consumers.

Retail Service Quality (RSQ): Codes are seen as helpful in ensuring consistency, minimum standards across providers and protections for consumers

Our views on possible areas for consideration

Simplification – The regulatory system is complex, making it opaque and hard to navigate. Streamlining regulations could reduce burdens and improve the flexibility and resilience of the regulatory system.

Adaptability and resilience – Technological change is causing the market to change quickly, and the regulatory framework needs to be in step with the changes. Some legacy regulations are a barrier to innovation and creating unnecessary costs. Improving the flexibility of the regulatory system will help it to keep pace with the changing market dynamics.

Proportionality and competition – The market is characterised by a small number of large, dominant companies and a large number of small companies. The regulatory system should be proportional and foster competition.

Telecommunications Service Obligations (TSO)

Why does government intervene?

- To provide a legal framework for the government to contract providers to deliver telecommunications services that may not otherwise be supplied on a commercial basis
- To enable market gaps to be addressed for the availability and affordability of selected telecommunications services, which can include remote areas

(Note: TSO Deeds are formal agreements with Chorus and Spark that ensure landline services (voice calling) remain accessible.)

Findings

Market and technology shift – New Zealand is phasing out copper-based telecommunications as modern technologies like fibre, wireless, and satellite now cover most homes, making copper obsolete and unable to meet the increasing range of connectivity needs. Modern digital connectivity involves more accessible, flexible, and technology-neutral solutions. The general regulatory regime has evolved from a monopoly-based model – ensuring access post-Telecom privatisation – to a more competitive, market-driven approach.

Investment trade-offs – Maintaining the copper network is becoming challenging, and continuing to do so diverts resources from investing in more advanced technologies and business opportunities.

Access to services – While there have been increases in services available, the Deeds remain a safeguard to ensure local calling and emergency access - continue to be available and affordable to users.

Options

Option 1: Continue Status Quo
Chorus maintains the copper network indefinitely, with the option to replace it using alternative technologies for service delivery

Option 2: Phase out
Abolish the Deeds through a phased approach to allow a smooth transition of TSO service users to alternative technology services. Some aspects such as the Initial Call Answering Platform (111 emergency service) would be preserved.

Option 3: Modernise
Replace the existing TSO Deeds with a new mechanism to subsidise access to emergency calling and/or other essential services (for example, funded through the Telecommunications Development Levy). This could be open to new suppliers and adoption of alternative technologies.

Option	Key Benefit	Key Risk
Option 2: Phase out	*Greater market efficiency and reduced complexity*	*Rural communities may face higher costs and / or service disruption*
Option 3: Modernise	*Ensures access to essential services for rural communities with less cost for providers*	*It may be difficult and complex to implement*

Consumer matters: Retail Service Quality (RSQ) and dispute resolution

Why does government intervene?

The government regulates consumer matters in the NZ telecommunications market to correct information asymmetry between consumers and retailers and address systemic consumer issues, which in turn supports competitive market outcomes.

Findings

Opaque legislative objectives – Improving retail service quality to reflect the demands of end-users is an ambiguous regulatory objective. The Act does not require cost-benefit analysis or an assessment of the potential harms to consumers to justify regulatory actions in consumer matters.

Ineffective regulatory roles – The Telecommunications Forum (TCF) has a quasi-regulatory role. While it provides industry expertise for developing regulatory tools, there are few incentives for the TCF to correct systemic issues or challenge industry behaviour. Offshore providers are not TCF members, meaning the burden of compliance is skewed towards domestic retailers.

Limited levers for enforcement – The Commerce Commission's retail service quality guidelines are not binding on industry. There are no real enforcement levers for TCF industry codes except for removing TCF membership, and industry membership is essential for making consumer protections universally available. Available dispute resolution schemes (and any new schemes) are universally required to apply TCF codes.

Options

Note: options for change can be combined and are not mutually exclusive

Option 1: Status Quo
Commerce Commission continues to monitor and investigate RSQ with TCF involvement

Option	Key benefit	Key risk
Option 2: Refine the existing purpose of Part 7 in the Act Set a prescriptive, evidence-based threshold for further interventions	*Balanced regulatory objectives*	*Less focus on risks for consumers*
Option 3: Change the balance of responsibilities between the regulator and the industry body Remove the role of the TCF from legislation	*Regulatory independence and role clarity*	*Limited opportunities for industry involvement*
Option 4: Consolidate and uplift the existing regulatory instruments Merge the existing retail service quality guidelines into a central, binding code, with consideration of how to effectively enforce the code	*Certainty and predictability for all parties*	*Constraints on competitive differentiation for industry*

Fibre Regulation & Legacy Deeds / Agreements (1 of 5)

Why does government intervene?

The government intervenes in the market for fibre provided by local fibre companies (LFCs) who participated in the Ultra-Fast Broadband (UFB) initiative to address market power.

Findings

Market asymmetry – The UFB initiative developed the fibre broadband market by forming regulated LFCs to develop fibre networks and wholesale fibre services on an open-access basis. Emerging technologies like 5G and Low Earth Orbit satellite operators are growing their market share, introducing alternatives that may pressure entry-level fibre pricing. Unlike structurally separated fibre providers, vertically integrated wireless and satellite operators can deploy and market services more flexibly, giving them a strategic advantage in rural and greenfield areas.

Disproportionate – Although considerable work is underway, the framework's design does not appear to have sufficiently evolved to reflect the current landscape creating an imbalance between the actual risk and the level of risk the framework was originally designed to manage.

Rigid, inefficient, and uncertain – The multi-layered framework is slow to respond to market changes and lacks clear timeframes for decisions on constitutional changes, resulting in uncertainty and lost opportunity. Obsolete legacy deeds and agreements hinder streamlined operations and pose unnecessary compliance burdens. For example, the redundant requirements for reporting on system sharing arrangements between Chorus and Spark that were needed to ensure vertical separation.

Fibre Regulation & Legacy Deeds / Agreements (2 / 5)

Government share and constitutional restrictions (small LFCs)

As part of the Ultra-Fast Broadband initiative, each small Local Fibre Company was required to include a non-voting Government "golden share" in its constitution to protect Crown investment and ensure strategic oversight of the rollout.

Options

Option 1 Status Quo: No change to constitutional restrictions or government share

Option 2: Retain government share and establish a clear and time-limited Ministerial approval process

Option 3: Remove government share and move line of business restrictions into legislation

Key Benefit	Key Risk
Improves transparency and predictability	*Does not address complexity with public / private governance*
Improves efficiency and transparency	*Statutory approach may be disproportionate to risks*

Regulatory processes: Exemptions for services above Layer 2 and pace and structure of deregulation reviews

The Layer 2 exemption process allows the Local Fibre Companies to apply for permission to offer services beyond basic network access. Services above Layer 2 are typically prohibited by the retail / wholesale separation.

Options

Option 1 Status Quo: No change to existing processes

Option 2a: Streamline the Layer 2 exemption process (for example, not requiring consultation for new service proposals and creating a fast track process to ensure approvals are timely)

Option 2b: Streamline deregulation review process by combining 2-step process into a single step and indicative timeframes for decisions

Key Benefit	Key Risk
Simplifies the existing complex regulatory framework	*Keeping processes statutory offers limited flexibility*
Reduces administrative burden; responsive to fast-paced market changes	*Reviews may be too early for a deregulation decision*

Fibre Regulation & Legacy Deeds / Agreements (3 / 5)

Ownership Restrictions / Shareholder Caps

As part of regulatory conditions, three of the four Local Fibre Companies were required to include shareholder caps in their constitutions, with Chorus limiting individual ownership to 10% and non-New Zealand nationals to 49.9%, while Enable and Northpower imposed a cap of less than 10% for non-New Zealand nationals.

Options

Options		Key Benefit	Key Risk
Option 1 **Status Quo** Maintain shareholding restrictions in constitutions	**Option 2:** Remove and rely on existing legislative controls (e.g. Overseas Investment Act)	*Improves efficiency, adaptability, and transparency; supports investment*	Reduces oversight of domestic investors (not covered by OIA)

Geographically Consistent Pricing (GCP) / Uniform Pricing

Chorus is required to charge the same price for fibre fixed line access services that are materially the same, regardless of the geographic location of the access seeker or end-user, to ensure consistent pricing across New Zealand.

Options

Options		Key Benefit	Key Risk
Option 1 **Status Quo:** Retain existing geographically consistent pricing requirements	**Option 2:** Targeted Reform – Narrow the scope of the requirements to exclude non-residential services and apply selectively to specific geographic areas	*Reduces requirements to where there is less competition*	*Ongoing complexity of applying exclusions*
	Option 3: Repeal GCP requirements and introduce a new mechanism to subsidise accessibility (for example, funded through the Telecommunications Development Levy). See TSO Option 3.	*Enables pricing to reflect cost while providing targeted accessibility*	*Pricing benefits may not evenly distribute across end users*

Fibre Regulation & Legacy Deeds / Agreements (4 / 5)

Fibre unbundling (Layer 1)

Layer 1 fibre unbundling means that companies who own fibre networks must let other broadband service providers use their fibre cables. This allows those providers to install their own equipment and offer different types of services to customers.

Options

Option 1 Status Quo: Retain current unbundling obligations

Option 2: Repeal Layer 1 unbundling requirements avoiding additional costs of rolling out new fibre networks and removing duplication in the legislation

Option 3: Amend legislation to require the Commerce Commission to consider repeal as part of the Commission's next regulatory reset in 2027

Key Benefit	Key Risk
Reduced cost / complexity of contractual obligations / aligns with international best practice	*Removes opportunity for more diversity in the market*
Mitigates the risk of unintended consequences for competition from immediate repeal	*Delays regulatory change*

Anchor Services

Anchor services are regulated fibre-based services designed to ensure affordable, basic broadband and voice options are available to all users, regardless of location.

As the full impacts of this intervention on competition should be assessed before recommending changes, and as this area is already subject to deregulatory reviews by the Commerce Commission, we recommend:

Amend legislation to require the Commerce Commission to consider phased repeal as part of the Commission's next regulatory reset in 2027.

Fibre Regulation & Legacy Deeds / Agreements (5 / 5)

Legacy Deeds & Sharing Agreement

Chorus' legacy deeds—including the Copper Deed, Governance Deed, Network Sharing Agreement, and RBI Deed—originated from structural separation and government programmes but are now largely obsolete or duplicated in legislation.

Options

Option	Key Benefit	Key Risk
Option 1 **Status Quo:** Retain legacy Open Access deeds for copper and RBI and obsolete Sharing Agreement		
Option 2: Full legislative integration	*Simplified regulatory framework*	*Statutory solutions will be less flexible*
Option 3: Targeted sunset clauses tied to deregulation of relevant technology and termination of obsolete sharing agreement	*Simplification over a predictable timeframe*	*Needs careful transition planning to ensure no loss of protections*

Telecommunications Development Levy & Telecommunications Regulatory Levy

Why does government intervene?

The government charges levies on the telecommunications sector for two reasons:

- To fund telecommunications infrastructure that isn't commercially viable (for the public good)
- To recover the regulators costs for regulating the sector

(Note: The total TDL collected from industry was c.$10m last year, but in past years has been as high as c.$50m).

Findings

Complexity and admin burden - The process for calculating the levy is overly complex and burdensome. It rrequires bespoke financial data not aligned with standard annual accounts that needs to be externally audited. Industry has estimated that this costs each company $50,000–$100,000 per year.

Uncertainty and unpredictability - Levy amounts are hard to forecast as they are based on each company's relative market performance compared to their competitors. There is also uncertainty about which revenue streams are in scope for the levy – e.g. whether undersea cables are in scope or not.

Options for change

(Note: options for change can be combined and are not mutually exclusive)

Option 1: Status Quo Keep current levy design

Option	Key Benefit	Key Risk
Option 2: Remove the requirement for financial information to be externally audited and provide the regulator with a power to investigate if it suspects a company is misrepresenting its financial information.	*Removing cost of external auditing*	*N/A*
Option 3: Base the levy on **gross telecommunications revenue** instead of the current concept of 'qualified revenue' where the levy is only charged on some income streams and not others. This would eliminate the need for bespoke accounting.	*Removing the admin burden of bespoke accounting*	*Might change distribution of levy liabilities*
Option 4: Set the levy as a fixed percentage (either at a flat rate or tiered), instead of basing it on relative market performance, to improve predictability.	*Improving certainty for industry*	*Could make levy distribution less proportionate*
Option 5: Consider whether the levy should **only be charged on retailers** (as wholesalers pass the levy charges onto retailers anyway)	*Removing a burden on wholesalers*	*Could increase costs for retailers (and consumers)*

Requirement to consider costs and benefits (not compromising ability to regulate)

Why does government intervene

The government generally intervenes by monitoring the telecommunications sector for the purposes of:

- Sourcing **information for assessing market performance, identifying trends and any market power/competition issues**
- Correcting **information asymmetry** between the regulator and industry that is preventing verification of industry positions
- Creating **independent market information** that holds public value for industry, investors, and policy makers.

Findings

Compelling participants to provide information is **required to identify market power/competition issues and to correct information asymmetry.**

Transparency, visibility and accountability regarding the costs and benefits would further encourage compliance and cooperation and support continuous improvement and to ensure greater efficiency.

	Key Benefit	Key Risk
Option 1: Status Quo: Using Letter of Expectations - Commission's discretion.	*Provides flexibility*	*May lead to inefficiencies as the costs may outweigh the benefits*
Option 2a: Overarching statement requiring the consideration of costs and benefits, e.g. adding in the overall purpose statement, such as 'not imposing undue financial and administrative burdens on participants in the telecommunications industry, but doesn't compromise the effectiveness of regulation.'.	*Seeks to balance costs* *Greater transparency* *Greater accountability*	*May increase costs due to the need to complete assessments* *May create legal risk*
Option 2b: Including a similar statement as set out in option 2a within the relevant sections, including section 186 (information disclosure), section 9a (information and monitoring), section 10a (monitoring of retail service quality).	*Same benefits as option 2a but may have a lower legal risk*	*May increase costs due to the need to complete assessments* *May create legal risk*

Next Steps

- Late August – Late September: Public Consultation on Options will run for 4 weeks

- Early October - Advice on draft recommendations will be provided to Joint Ministers

- Late October / Early November - The draft report and Cabinet paper will be provided to Joint Minister’s

- Mid-Late November - Report and Cabinet paper will be finalised ahead of EXP on 2 December and Cabinet on 8 December