Briefing Paper

MFR2025-149

Ministry for Regulation
Te Manatū Waeture

To	**Hon David Seymour, Minister for Regulation**		
Copy to	**Hon Paul Goldsmith, Minister for Media and Communications**		
Title	**Telecommunications Review provisional findings and provisional recommendations**	Number	**MFR2025-149**
Date	**10 October 2025**	Priority:	**Medium**
Action Sought	**Discuss the provisional recommendations from the Telecommunications Regulatory Review at the Joint Ministers meeting on 15 October**	Due Date	**15 October 2025**
Contact Person	**Paul Delahunty, Deputy Chief Executive**	Phone	S 9(2)(a) [redacted]
Contact Person	**Maria Spencer, Senior Advisor**	Phone	S 9(2)(a) [redacted]
Attachments	**Appendix A: Consultation overview** **Appendix B: Provisional findings, provisional recommendations and potential vehicles for change**	Security Level	**IN CONFIDENCE**

Executive Summary

1. Following public consultation, we have developed a set of provisional recommendations to simplify, modernise, and future-proof the regulatory system.
   - **Appendix A** provides a quantitative overview of the consultation.
   - **Appendix B** outlines the provisional findings, provisional recommendations and potential vehicles for change.
2. You are meeting with the Minister for Media and Communications on 15 October 2025 as Joint Ministers overseeing the Telecommunications Sector Regulatory Review (the Review). The meeting's purpose is to seek feedback on the provisional recommendations. A proposed agenda is included for your consideration.
3. The telecommunications market comprises diverse segments with competing interests, resulting in contrasting stakeholder views. For example, retailers often oppose deregulation for fibre wholesalers, while wholesalers oppose deregulation that benefits retailers.

4. Overall, we consider the package of recommendations is well-balanced. It offers simplification and burden reduction for most regulated parties while safeguarding consumer interests, particularly in rural and remote areas. We estimate the net benefit/savings from the recommendations are at least $40-$50 million over 10 years.

5. We understand that the Ministry for Business, Innovation and Employment (MBIE) and the Commerce Commission (Commission) are broadly comfortable with the recommendations, apart from the following areas:
    - Proposal to phase out the Telecommunications Service Obligations (TSO) – MBIE is seeking further information on the design and possible implementation.
    - Proposal to repeal Layer 1 unbundling[1] — MBIE and the Commission have raised concerns about potential unintended consequences.
    - Proposals for changing how the telecommunication levies are calculated – MBIE does not agree the proposed changes simplify the calculation process.

6. Hence, we recommend that you focus on these three issues during the meeting.

7. Before you seek Cabinet's endorsement of the recommendations, we would like the opportunity to further engage with Chorus and Spark to discuss the timing of a possible phase-out of the Telecommunications Service Obligation (TSO) and refine our advice in relation to these recommendations. We also continue to work with MBIE and the Commission on the Review.

8. We will provide the draft Review report and Cabinet paper by 30 October 2025, with decisions on the final recommendations to be sought from Cabinet in December 2025.

[1] Layer 1 unbundling lets other businesses install their own equipment on fibre strands, but it is expensive and rarely used, even in New Zealand, where it was required by design. All other countries do not require it because it is costly, hard to scale, and duplicates infrastructure inefficiently.

Recommended Action

We recommend you:

a	**note** that we have developed provisional recommendations, which have been shaped by public consultation, sector engagement and economic analysis.	*Noted*
b	**note** that our initial work indicates if the recommendations are fully implemented, we estimate the net benefit/savings to be at least $40-$50 million over 10 years.	*Noted*
c	**note** that you are meeting with the Minister for Media and Communications on Wednesday, 15 October to discuss the provisional recommendations.	*Noted*
d	**note** that it is proposed that you focus your discussion on areas where agencies have different views: • proposal to phase out the TSO • proposal to repeal Layer 1 unbundling • proposed changes to how the telecommunication levies are calculated.	*Noted*
e	**agree** that the Ministry for Regulation can further engage with regulated parties to discuss phasing out the TSO and changes to the telecommunications development levy before you seek Cabinet's endorsement of the Review's recommendations.	*Agree / Disagree*
f	**note** that you and the Minister for Media and Communications were invited to return to Cabinet to seek decisions on the Review's recommendations by the end of 2025. (We will provide you with the draft Review report and draft Cabinet paper by **30 October**.)	*Noted*
g	**agree** that this briefing is not proactively released until the Review has concluded.	*Agree / Disagree*
h	**refer** a copy of this briefing to the Minister for Media and Communications.	*Agree / Disagree*

S 9(2)(a) [redacted]

Paul Delahunty, Deputy Chief Executive **Ministry for Regulation** Date: 10 October 2025	Hon David Seymour **Minister for Regulation** Date:

Purpose of Report

9. To present the preliminary findings and preliminary recommendations of the Telecommunications Sector Regulatory Review (Review), to inform discussion at your meeting with the Minister for Media and Communications on 15 October. So that you are well briefed, we are planning to discuss this briefing with you at the Agency meeting on 14 October.

Background

10. The Ministry for Regulation (the Ministry) is reviewing the telecommunications regulatory framework to ensure it remains fit for purpose as technology and market conditions evolve. The Review aims to simplify and modernise regulation, making it proportionate, adaptable, and effective.

11. Following targeted engagement, the Ministry developed options for consultation in five key areas [MFR2025-148 refers]:

    - Consumer protection and customer service
    - Access to basic telecommunications services
      (includes Anchor Services and Geographically Consistent Pricing)
    - Fibre regulation
    - Telecommunication Development Levy
    - Commerce Commission sector monitoring

12. We conducted public consultation on these options from 28 August to 25 September 2025.

Public consultation

Overall Summary

13. We received 36 submissions from a broad cross-section of the sector. In comparison, the Ministry of Business, Innovation and Employment (MBIE) reported that it received 28 submissions to its 2024 consultation, which similarly sought feedback on the telecommunications regulatory and funding frameworks. **Appendix A** provides a quantitative overview of the submissions we received.

14. Most responses (78%) came from organisations. Consumer groups and individuals, made up the remaining 22%, provided both urban and rural perspectives.

15. To ensure the Review considered potential impacts on rural communities, we contacted Federated Farmers and Rural Women New Zealand. Rural Women

provided a submission; Federated Farmers did not initially engage. We have since followed up with both organisations.

16. Federated Farmers have subsequently advised that because their concerns (primarily funding and investment in rural connectivity) are not the focus of this Review, a meeting is not necessary. They did not mention any concerns about phasing out the TSO.

17. We are planning to meet with Rural Women next week and, if required, we will provide further advice.

Key themes from consultation

18. **Positive feedback:** Stakeholders praised the Commission's recent changes to the information disclosure requirements and noted the retail service guidelines provide value for consumers. Both MBIE and the Commission were recognised for effective regulatory practice. Open access and price-quality rules for fibre and availability of dispute resolution options were highlighted as strengths.

19. **Stakeholder divergence:** Stakeholder views on options were shaped by competitive dynamics between provider types. In fibre regulation, for example, fibre wholesalers sought more flexible rules to support innovation, while retailers opposed changes that might weaken the wholesale-only model or safeguards, citing risks of unfair competitive advantage. These positions appeared to reflect a preference for regulatory settings that constrain rival provider types. **Appendix A** provides more detail on these divergent views.

Themes that influenced our provisional recommendations (see Appendix B)

20. **Support for change with caution:** Across the five consultation areas, stakeholders generally supported modernising and simplifying the regulatory framework to reflect technology and market changes, but many cautioned against losing visible safeguards (such as the Government Share and ownership caps) without ensuring open access and the wholesale-only model are preserved.

21. **Targeted support and transition:** There was strong emphasis on maintaining robust consumer protections, digital equity, and transparency. There was broad support for targeted measures to assist rural and vulnerable groups, as well as for careful transition planning if legacy obligations, like the Telecommunication Services Obligations (TSO)[2], are phased out.

[2] Telecommunications Service Obligations are requirements agreed with select service providers to enable the supply of certain telecommunications services that would otherwise not be available commercially or affordably.

22. **Process and proportionality:** Many welcomed streamlining of exemptions and review processes, but stressed the need for clear criteria, transparency, and ongoing engagement to maintain confidence in the system.

23. **Digital inclusion and competition:** Stakeholders highlighted the importance of digital inclusion, fair competition, and ensuring that changes do not disadvantage rural or low-income households or smaller service providers.

24. A full Summary of Engagement report will be appended to the Review's final report.

Findings and provisional recommendations

25. The Review found that while key elements of the current regulatory system, such as open access, price-quality rules for fibre, and dispute resolution, are functioning well, the overall system has become overly complex with examples of overlapping, redundant, and obsolete rules. This complexity has resulted in inefficiencies and gaps in consumer protection.

26. We address these issues by outlining a set of targeted recommendations (see **Appendix B**). These provisional recommendations focus on simplifying and modernising the regulatory framework, ensuring rules are proportionate and adaptable, and strengthening outcomes for consumers.

27. In their submissions, retailers noted the uneven playing field regarding the Telecommunications Forum's (TCF) marketing codes. Currently wholesalers have influence on the design of the codes but are not governed by them, even though marketing occurs directly to consumers.

28. As we did not consult on the possibility of including wholesalers in consumer codes, we subsequently invited wholesalers to consider it. While wholesalers raised concerns, we are recommending that there is an ability for the Commission to include wholesalers in codes. This is because as part of broader changes to the consumer protection framework, we are proposing that any codes are proportional.

Possible impact of changes

29. The Ministry's Chief Economist conducted a cost-benefit analysis on the possible impact of phasing out the TSO and proposed changes to the telecommunications levies. However, we could not collect sufficient data from agencies and regulated parties to assess the impact of the other recommendations.

30. Our initial work indicates that the Review's recommendations will generate a net benefit/savings of at least $40-$50 million over 10 years. The savings are being generated from the following proposals:

    - to phase out the TSO
    - to repeal unbundling
    - changes to how the telecommunications levies are calculated and audited.

31. There will be a reduction in regulatory burden, improved competition, simplification of the regulatory framework, and improved proportionality generated by the other recommendations.

Possible vehicles for change

32. **Appendix B** details the possible vehicles for change for each recommendation. Several of the provisional recommendations require legislative change, particularly the proposals relating to the consumer protection code, fibre regulation, changes to the telecommunications levy, and proposal for the Commission to consider proportionality when using its powers to require the supply of information.

33. Other recommendations can be achieved through operational changes, while a few require the Commission or MBIE to conduct reviews to assess whether key regulations are achieving their intended competition or policy objectives.

34. One of the recommendations for competition review relates to Anchor Services[3] and proposes that the Commission review them in 2027. This suggested timing aligns with the Commission's next regulatory reset. We understand that any change to Anchor Services other than repeal is likely to result in business disruption. Providing certainty around the timing of the Commission's review is intended to help manage that risk.

Agency concerns

35. We understand that MBIE and the Commission are broadly comfortable with the recommendations, apart from the following areas:
    - Proposal to phase out the **TSO**, including directory services, and provide targeted financial support to low-income households without affordable services
    - Proposals for changing **how the telecommunication levies are calculated**
    - Proposal to repeal **Layer 1 unbundling.**

36. MBIE's concerns are set out in the "Agency comment" section below.

37. **TSO -** while the proposal to phase out the TSO requires further design and implementation consideration, it is timely that the Government signal this possibility, and any risks can be mitigated. Moreover, the benefits (as set out in paragraph 30) outweigh the costs.

38. **Levy changes -** the changes to how the telecommunication levies are calculated are broadly aligned with proposals put forward by the TCF during the consultation and

[3] Anchor Services are basic fibre broadband and voice services that fibre network providers must offer at regulated prices to ensure affordable, reliable connectivity and to help guide pricing for other fibre services.

are supported by a majority of industry respondents. We will undertake further engagement with regulated parties to refine changes to the levy design.

39. **Layer 1 unbundling** requires fibre wholesalers to allow other providers, such as retailers, to install their own equipment on fibre strands so that they could, in theory, compete directly with wholesalers. The intention is to enable competition in areas where fibre wholesalers have local fibre monopolies. However, in practice only one retailer has taken up this option as it is generally not economically viable. This is not because prices are set at anti-competitive levels, but because there are economies of scale in unbundling, so that multiple customers need to be served to make unbundling viable.

40. Maintaining and providing the unbundled system imposes ongoing costs on fibre companies as they must support additional infrastructure that is rarely used. For example, one provider has advised their costs to be between $4m over 10 years.

41. The requirement imposes costs without delivering meaningful benefits. Internationally, competition is enabled more efficiently through software-based solutions (known as virtual unbundling), which achieve the same outcome at lower cost. We therefore recommend repealing the Layer 1 unbundling requirement.

42. S 9(2)(g)(i) [redacted] We understand this is MBIE and the Commission's preferred option (as set out below). However, we think consideration should be given to repeal this requirement now.

Agency comment

43. MBIE provided the following feedback for inclusion in this briefing:

> "MBIE has had an opportunity to review the draft recommendations. We have signalled to the Ministry for Regulation (MfR) there are a number recommendations where we do not agree with their findings and/or further work is required before Ministers would be able to take decisions on MfR's advice. The main areas are:
>
> - **Telecommunications Service Obligation.** The draft recommendation does not specify the type of service MfR believes New Zealanders should have access to but suggests putting funding in place for households on low incomes to support them to transition to this service. Without clear analysis on what that service will be and why it should be provided, it is difficult to assess the merits of the recommendation, or the amount of funding required to support it. It is also unclear as to why funding support would be provided to people in rural areas and not in urban areas. Should Ministers wish to take decisions on removing the TSO, we strongly recommend further work is done to flesh out this detail, otherwise Cabinet

will not be able to accurately determine how much funding is required to support MfR's recommendation. Further, MBIE is of the view that there needs to be a clear and reasonable transition period for any removal of TSO obligations, taking into account the availability and maturity of alternative technologies and the time needed for consumers to transition to alternative technologies. MfR's recommendation is silent on a transition period.

- **Fibre unbundling.** MfR is recommending that fibre unbundling is removed. MBIE has advised MfR that a full competition assessment needs to be done before taking this recommendation forward. The Commerce Commission is best placed to undertake this competition assessment. Fibre unbundling is a pro-competitive control that allows retail internet service providers to operate in parts of the market solely occupied by local fibre companies like Chorus. This requirement is designed to put pressure on the monopoly power of fibre providers and allow retail internet service providers the opportunity to diversify their product offerings to better meet the needs of consumers.
- **Telecommunications Development Levy.** The purpose of redesigning the TDL was to simplify the calculation process to take cost out of the system. We do not believe that MfR's preferred option is simpler and less costly than the current calculation method, and the transition costs for the industry and Commerce Commission are likely to be significant."

Proposed Agenda for Joint Ministers meeting on 15 October

44. At your meeting on Wednesday 15 October, we propose that you:
    - Discuss the updates provided in this briefing on
        - Provisional findings
        - Provisional recommendations with particular focus on:
            - Proposal to phase out the TSO and provide targeted support
            - Proposal to repeal Layer 1 unbundling
            - Proposal to change how the telecommunication levies are calculated.
- Agree upon the next steps.

Next Steps

45. Once we have your feedback on the provisional recommendations, we will continue to refine them and can work with providers such as Spark and Chorus, and MBIE and the Commission. The Ministry will provide you with the Review report by 30 October along with a draft Cabinet paper for your feedback.

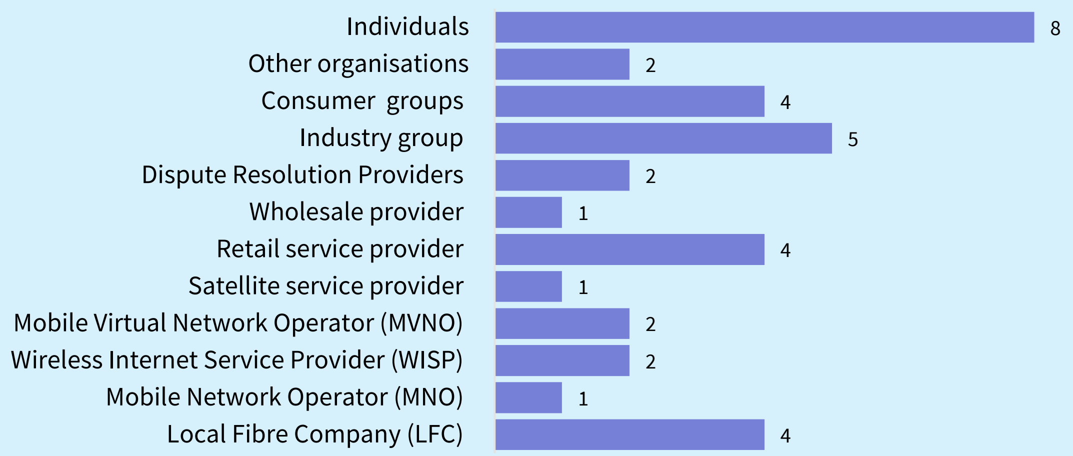
46. The proposed forward milestones are set out in the following table:

Timing	Next Steps
Late October	The Review will provide its draft report and draft Cabinet paper and any supporting material
5 November	Joint Minister meeting to seek feedback on draft report and draft Cabinet paper
Early November	Finalise Cabinet paper and report
Early-mid November	Agency consultation
Mid-late November	Ministerial consultation
27 November	Lodgement
2 December	Cabinet Expenditure and Regulatory Review Committee (EXP)
8 December	Cabinet

Appendix A: Consultation Overview
Telecommunications Sector Regulatory Review

Demographics

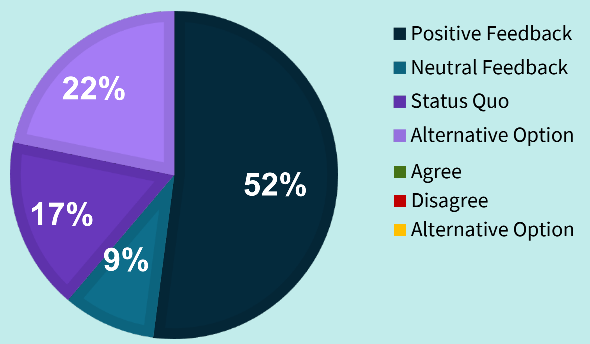
Submitter Type



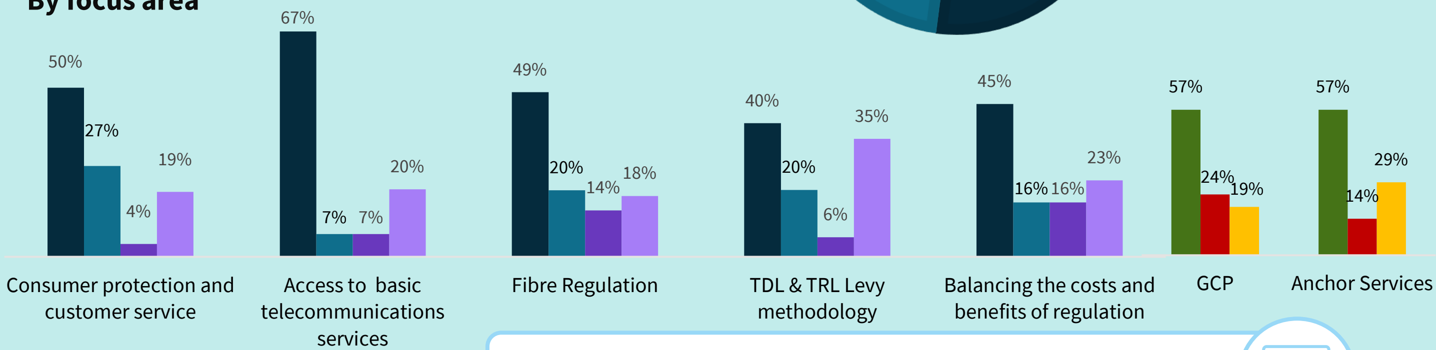
Sentiment of Submitters

Overall Sentiment

Analysis is based on responses to the consultation document

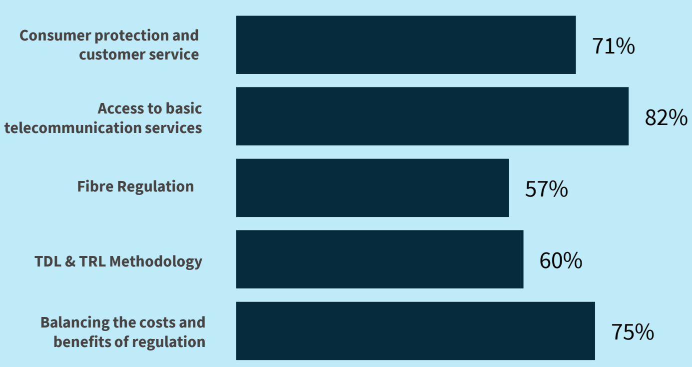


By focus area

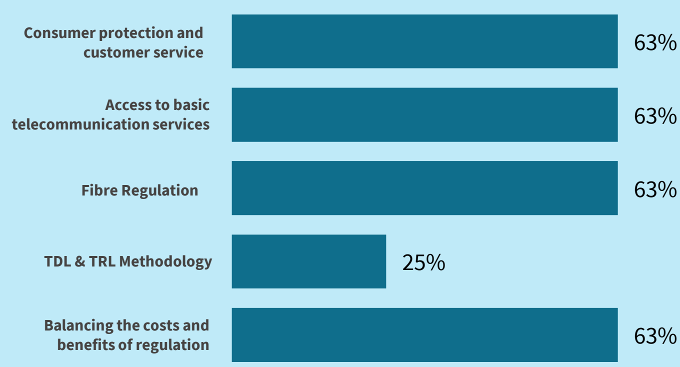


Engagement Across Focus Areas

Organisation



Individual



APPENDIX B: Provisional findings, provisional recommendations and potential vehicles for change

Key:

Requires legislative change prior to implementation	
Requires legislative change, but could be partially implemented, before legislation is passed	
No legislation required prior to implementation	

Area being examined	What are the key problems?	Summary of provisional recommendations and potential vehicle for change	Expected Impact
1. Telecommunications Service Obligations (TSO) enables supply of services that would otherwise not be available or would be unaffordable (further discussion with industry proposed)	• TSO including directory services are not fit-for-purpose. • Supports the copper withdrawal as low-income households will be able to move to an alternative service.	• Phase out the TSO, including directory services. • Fund targeted financial support through the Telecommunications Development Levy (TDL).	Reduces regulatory burden Increases competition Estimated savings of $30-$40 million over 10 years
2. Telecommunication Development Levy methodology used to calculate the levy (further discussion with industry proposed)	• The methodology is administratively complex, burdensome, disproportionate and levy charges are challenging for industry to forecast.	• Charged on revenue from broadband, mobile and data connection services (we are currently considering the appropriate level of the threshold) • Annual disclosure of how the levies are spent • Not requiring audited information to be provided	Reduces regulatory burden Simplifies the regulatory framework Provides greater certainty for industry Improves proportionality Estimated savings of $4.4 million over 10 years
3. Layer 1 unbundling requires LFCs to allow other businesses to directly access fiber and install their own equipment; enabling competition at Layer 2	• Minimal uptake • Imposes cost burden with little present or future benefit.	• Repeal requirements for Layer 1 unbundling.	Reduces regulatory burden Estimated savings of $4 million over 10 years
4. Exemption process for services above Layer 2 allows fiber companies to seek permission to offer services beyond the data link layer of the fibre network, which are otherwise restricted under the wholesale-only model	• The exemption process is not used because the process requires disclosure of sensitive business information (new service offerings) to competitors. • Inhibits innovation	• Streamline the exemption process for services above Layer 2.	Supports innovation
5. Industry-self regulation and Commission Commerce consumer codes correcting information asymmetry.	• Some providers have an unfair advantage as not all providers are subject to rules. • Providers who are not subject to TCF industry codes and larger providers have undue influence on the content of industry rules. • The process used by Commerce Commissions lacks transparency and should be proportional.	• Remove the statutory role of TCF. • Ability for a Commission consumer protection code in consultation**, if** required. • Ability to extend the coverage of a code to wholesale providers, where they engage in consumer-facing activities • Require the Commission to consider transparency and proportionality as part of the code making process.	Reduces regulatory burden Improves proportionality Increases transparency

Area being examined	What are the key problems?	Summary of provisional recommendations and potential vehicle for change	Expected Impact
6. Fibre deregulation review process currently 2-steps involving an initial reasonable grounds review followed by a full review, if reasonable grounds are found	• The current process is slow and administratively burdensome.	• Amend the deregulation process to allow a single step deregulation review process.	Reduces regulatory burden
7. Commerce Commission sector monitoring corrects information asymmetry and provides information about the performance of the sector.	• The process used by Commerce Commissions lacks transparency and should be proportional.	• Require the Commission to consider proportionality when using its powers to require the supply of information. • Encourage the Commission to further increase transparency when requiring information for market monitoring.	Impact depends on Commission Status quo: no impact Change: • Reduces regulatory burden • Provides greater certainty for industry • Improves proportionality
8. Legacy regulatory obligations in telecommunications include various rules relating to old technology (copper) or completed initiatives (RBI)	• Some legacy rules are obsolete due to market maturity.	• Require MBIE to review and terminate or modernise legacy rules.	Reduces regulatory burden Simplifies the regulatory framework
9. Governance settings in Local Fibre company (LFC) constitutions to remove the Government Share and Ministerial approvals	• Complexity caused by overlapping rules/tools and split oversight can be reduced.	• Preserve the wholesale-only model by moving line of business restrictions from constitutions into the Act. • Then allow LFCs to amend their constitutions.	Reduces regulatory burden Increases transparency
10. Ownership restrictions in LFC constitutions – place caps on how many shares can be owned by any one person or by non-New Zealanders	• More rigid than, and duplicative of, existing modern legislation. • Not all LFCs are treated equally.	• Allow LFCs to remove ownership restrictions from constitutions.	Incentivises investment in LFCs
11. Anchor Services are the basic internet and phone services that fibre companies like Chorus must offer at regulated prices and quality levels	• The regulations are not fit for purpose.	• Commission to review anchor services in 2027. (The outcome will be subject to ministerial consideration with any changes implemented through an order in council. If repealed, then legislative change will be required.) • Outcome of the review could be: Status quo, Change, Repeal.	Impact depends on outcome of Commission review Status quo: no impact Change: increases regulatory burden Repeal: removes regulatory burden
12. Geographically Consistent Pricing (GCP) ensures the same price for the same service is charged throughout NZ	• There is overlap between the functions of GCP and price-quality rules.	• Following the review of Anchor Services in 2027, MBIE to review GCP rules. If repealed, then legislative change will be required. • Outcome of the review could be: Status quo, Change, Repeal.	Impact depends on outcome of MBIE review Status quo: no impact Change: impact depends on degree of change Repeal: removes regulatory burden