

Commerce Commission submission on the Telecommunications Service Obligation Review Discussion Document

1. The Commerce Commission (Commission) extends its thanks to the Ministry of Business Innovation and Employment (Ministry) for the opportunity to be part of the Telecommunications Service Obligation (TSO) review. The local residential telephone service TSO is a significant part of the telecommunications regulatory framework. Its legacy extends beyond the introduction of the Telecommunications Act in 2001 (Act) back to a very different regulatory environment. In this sense it is a window on the social attributes New Zealanders valued in terms of telecommunications in the past.
2. The Commission supports the TSO being reviewed in terms of the current needs of New Zealanders and the dynamic solutions available from contemporary telecommunications network and service platforms.
3. In its discussion document *Review of the Telecommunications Service Obligations (TSO) for Local Residential Telephone Service*, the Ministry has extensively canvassed the TSO landscape. However, we note that at this stage of the process the discussion is on the high level implications, costs and benefits associated with the status quo and three change options. Accordingly, we have targeted our submission to comment at that level.
4. More specifically, in this submission we have not responded to questions on policy matters such as cross subsidies and affordability concerns, rather we have concentrated on practicalities. We have sought to extend the discussion of the options, not to signal any formal Commission position on implementing changes to the TSO.
5. We would also like to offer to provide further assistance when the Ministry has greater detail on the change options. At that stage the Commission would be able to offer more detailed advice such as analyses of the status quo and each change option in terms of distribution effects, costs and benefits, competition effects, and cost modelling.

Defining the problem and identifying key considerations

6. The TSO review is driven by the requirements set out in section 101A of the Act. With the recent changes in responsibility for the delivery of the TSO this is an opportune time to review the requirement for this obligation and its place in future developments in the telecommunications sector.
7. Prior to 2011 the TSO was delivered by one vertically integrated service provider. This meant issues and solutions related to operating the network (that delivers the TSO

service) and providing the service to the end-user, were considered in the context of a single provider.

8. Subsequent to the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011 (Amendment Act) and the demerger of Telecom, the TSO network and service obligations were separated out. Therefore, it seems to us best to consider each TSO provider's specific obligations in its own context, because the need for regulatory intervention differs between the TSO providers based on the economic problems being remedied.
9. The TSO uses two main interventions:
 - 9.1. The first intervention is to require the network provider to provide services to all customers within a specified footprint at a geographically averaged price, because otherwise it would have to charge high prices to customers in remote areas.
 - 9.2. The second intervention is to set a retail price cap to ensure the TSO service provider does not use its dominant position in the delivery of voice services to charge an unreasonably high retail price.
10. The key objective of the *TSO network intervention* is to provide a basic telecommunications service to commercially non-viable customers (CNVC), many of whom are likely to live in rural and isolated. The aim of providing services to CNVCs is not related to competition; it is about delivering a service to a specific set of customers for a regulated price that in some cases is below the cost of providing that service.
11. For the TSO network provider the following questions are essential.
 - 11.1. How do we reliably identify CNVCs?
 - 11.2. How do we ensure that a network is provided for the CNVCs in a way that is efficient and affordable?
12. The *TSO retail intervention* raises two competition-based questions.
 - 12.1. In what areas can the service obligation and price cap be removed because there is effective retail competition?
 - 12.2. How can effective competition be created (through the targeted change options) in areas where competition does not currently exist? Competition is limited in certain areas where only the incumbent TSO service provider can provide service.¹

¹ In some areas only the incumbent TSO service provider can provide services to these customers currently, because they have the necessary infrastructure in place to properly interface with the TSO network provider's infrastructure. Other service providers would need to build this interfacing infrastructure, but the cost of this build would likely be prohibitive.

13. Therefore, the two main interventions address fundamentally different questions. While discussion of competition assessments and price caps may be suitable for retail service provision, they will have limited impact on understanding and remedying the issues related to network service provision.

The RBI and the TSO

14. The Rural Broadband Initiative (RBI) will deliver a fixed line or fixed cellular data service (both capable of delivering voice services) to a significant proportion of households outside of the projected UFB footprint. More specifically this means the RBI will cover many of the hard to reach CNVCs that currently rely on the TSO to ensure a voice service.
15. We suggest that the Ministry further considers the impact of the RBI on both the network and service requirements for the TSO, because the RBI has been designed to ensure that :
 - 15.1. a network capable of delivering a minimum standard of service is established and maintained in specified rural areas; and
 - 15.2. the network is open access so as to permit effective retail competition.
16. The RBI network requirement can be seen as replicating aspects of the TSO in areas where the network TSO was designed to guarantee provision of a voice service (where it might otherwise not be provided). We think the RBI will likely have a significant impact on the role of the network TSO.
17. Similarly the open access platform that is an essential component of the RBI is likely to significantly impact on the service TSO. The RBI will bring a service platform capable of effective retail competition to a large section of rural end-users, where previously there was no service provider competition. Therefore, the service TSO in those areas may become obsolete.
18. We think that the RBI is a natural replacement for the TSO. We acknowledge that the RBI provides for more than a voice service but it will provide an ability to deliver a voice service to many of those hard to reach rural end-users, the TSO targets. Furthermore, the RBI could be extended to pick up the remaining households outside the current proposed UFB/RBI footprint. This would ensure all end-users are able to enjoy the benefit of a competitive retail market.
19. If the RBI was to replace the TSO, the RBI areas may need to be removed from the TSO. Alternatively, consideration could be given to the RBI network providers taking on the TSO obligations in the areas to which it provides network services.
20. In the following paragraphs we go further into the key considerations identified above. The aim is to assess the current TSO and proposed change options against the principles underpinning the TSO policy. Some of this discussion will also be included more specifically in the answers to relevant questions raised in the discussion document (as provided in Attachment A).

Taking into account the industry structure and market developments

21. When considering the TSO and change options, we think it is useful to separate the assessment of the social outcomes the TSO seeks to address (which is not our area of expertise) from the two economic problems and associated questions the TSO has been designed to address (more our area of expertise). The economic analysis has to take into account the industry structure, and the current and likely future market conditions.
22. Provided below is a discussion of our understanding of the nature of the economic problems the TSO has to deal with.

Under the status quo the TSO is delivered by two suppliers

23. Delivering services under the TSO requires both a network provider to build and maintain an access network, and a retailer with the necessary equipment to provide a service directly to customers using the access network as an input. With the separation of the 'old' Telecom into Telecom and Chorus in 2011, the status quo TSO is delivered by:
 - 23.1. Chorus as the network provider (the terms are set out in the network obligation deed); and
 - 23.2. Telecom as the only retailer required to provide a retail service to all customers (the terms are set out in the service obligation deed).
24. Telecom's costs of servicing TSO customers are largely for equipment and backhaul, with the main access network component being the nationally averaged price for copper (UCLFS) provided by Chorus.
25. TSO styled regulation is appropriate in situations where the market on its own does not achieve efficient or fair outcomes. However, the regulatory interventions warranted by the market failure differ between the network provider and the retail provider based on the economic problems these providers are obligated to remedy.

Reasons for the network TSO

26. The initial market failure in the access network arises because in many situations it would not be efficient to build more than one fixed line network to supply the same customers. Having a single access network creates the problem that left to its own devices, the monopoly network provider will set prices that are higher than costs.
27. In particular, because rural copper access lines may be several kilometres long and serve only a few customers, the unit costs per customer will already be high compared with urban customers, and rural prices may be extremely high. Such high prices may be considered unfair and may even be unaffordable for some end-users.
28. The network TSO, which includes the requirement for Chorus to provide network services at a nationally averaged UCLFS price, is designed to deal with the monopoly pricing problem and the supply problems created by high unit costs for some customers.

Reasons for the retail TSO

29. A retail TSO is required where there are barriers to competition with Telecom's POTS service. There are likely to be no barriers to competition where baseband IP and/or UBA is provided. However, there are some areas where these services are not available and there will continue to be need for a retail TSO in those areas.
30. The retail TSO is designed to deal with three key factors, caused by a lack of retail competition in some areas, which may result in:
 - 30.1. prices that are higher than those which would be set in competitive markets;
 - 30.2. service quality that is below that demanded by customers; or
 - 30.3. service not being provided at all.
31. The current regulatory intervention to solve the retail competition problem is a retail price cap placed on TSO voice services, which Telecom is also required to provide at a specified standard.

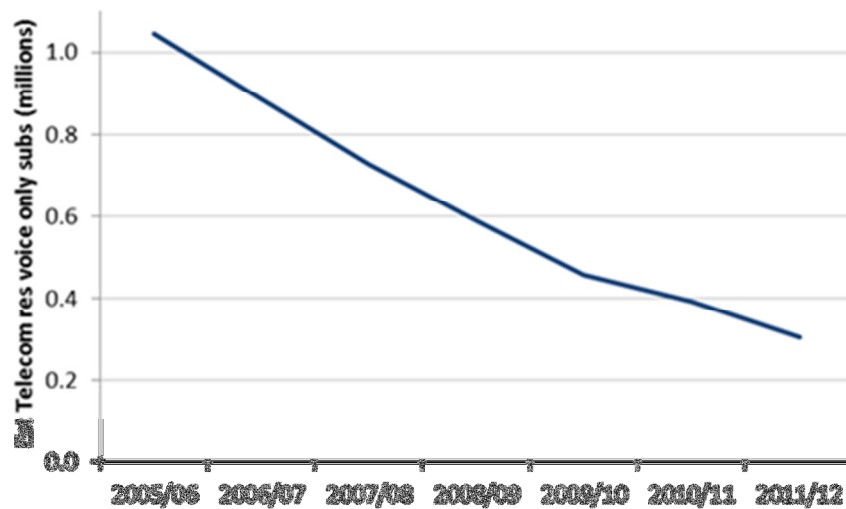
Market conditions

32. The price cap for fixed line voice services for households set the price Telecom could charge for a basic voice service with unlimited 'free' local-calling at the line rental charged in 1989 (with increases in the CPI). Given that telecommunications prices have generally tended to decrease at least in real terms since that date, it is likely that after 24 years of CPI increases the retail price cap is now generous.
33. When competing networks were built in Wellington and Christchurch in the mid-1990s, Telecom lowered its line rental price below the price cap. Later, Telecom also lowered its line rental prices in Auckland.
34. However, most consumers now no longer buy a voice service on its own, having moved to purchasing bundles of services (that include voice and broadband) from Telecom and other retailers. Furthermore, the need for conventional fixed voice-only services is being challenged by over-the-top (OTT) services like Skype and by mobile, where voice calling prices have fallen significantly.²
35. We estimate that in the year ending June 2012, the TSO set the price for up to 300,000 customers.³ The graph below shows the trend in the estimated number of Telecom residential retail customers purchasing only a voice service.

² The price for a bundle of broadband and voice services in New Zealand has been somewhat more competitive when compared to other OECD countries than the price of the voice service by itself.

³ This figure is based on data collected as part of our market monitoring role. Those customers in Auckland, Wellington and Christchurch would have been paying a lower line rental.

Figure 1 Estimated number of Telecom voice-only subscribers over time



Commission's current role

36. The Commission's current role in relation to the TSO involves two specific tasks:

36.1. annual reviewing of TSO providers' compliance with service quality measures contained in each providers respective TSO deed; and

36.2. providing a cost calculation (in accordance with sections 94 to 94K of the Telecommunications Act 2001), if requested to do so by Chorus.⁴

37. Of the two tasks, the cost calculation would be a significantly more involved process, particularly the inaugural calculation where the Commission would need to establish new policies and procedures to support the calculation process.

38. We are yet to receive a request from Chorus to provide a cost calculation, and it is unclear whether it would ever need this facility. This is because the price for the main network platform Chorus uses to provide the TSO services is regulated. If the net costs of delivering the TSO amounted to more than the revenue then it would be the result of a fault in the setting of that regulated price. If this did occur then it would appear more appropriate to resolve that issue directly by amending the price rather than resorting to a cost calculation.

Comments on change option one ("minimal change")

39. We note that change option one provides for greater technological neutrality than the status quo by allowing the service provider to utilise other technology to deliver the required services. This is important when considering the future focus of the TSO, as it allows for the TSO providers to take advantage of new infrastructure and provides for flexible service delivery, at potentially lower costs.

⁴ Currently only Chorus has the ability to request a cost calculation for the TSO as Telecom is prohibited from such an action under clause 41 of the Telecommunications Service Obligations (TSO) Deed for Local Residential Telephone Service, November 2011.

40. The question remains as to how the TSO service provider (Telecom) can be provided with the right incentives to use the most efficient delivery technology available. The risk is that a more costly technology is chosen driven by pricing choices, particularly due to price averaging.

Comments on change option two (“medium change”)

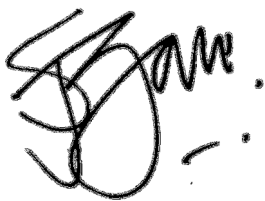
41. Change option two provides for more significant changes to the TSO, and the discussion document indicates that the Commission could take on a much larger role in the operation of the TSO.
42. The focus of this change option is on reducing the size of the TSO footprint by targeting the TSO to areas with limited competition. Accordingly, it is proposed that the Commission might conduct a competition assessment to facilitate this process. The assessment could be broad (a national assessment of localised areas) or targeted (only areas identified by the Minister or local end-users).
43. Competition assessments are something the Commission has some expertise in, and while we are not certain what form the assessment for this change option would take, the issues outlined below are relevant to the discussion of this type of assessment.
44. Where baseband IP is available, retail service providers other than Telecom can effectively compete with Telecom to provide a voice service over a fixed line. Where such competition is possible, it should not be necessary to have a retail price cap as any attempt by Telecom to raise the retail price should result in alternative supply being promoted or offered by other retailers.
45. Baseband IP is generally available in exchanges and cabinets that are capable of delivering a broadband service. Chorus should be able to provide details on the exact number of access lines that are not able to be served by baseband IP, but the Commission understands that it is less than 9% of the total.
46. There are also remote areas where the RBI has, or will be providing residential consumers, with a fixed line or fixed cellular service that provides similar functionality to the TSO service. This is likely to provide retail competition and should make the TSO redundant.
47. We note that setting price caps in TSO-zones would require cost modelling, and this could be applied generally across all TSO-zones or could be targeted to the specific requirements of each zone. However, setting different price caps for different geographic areas would raise further issues.
48. These tasks would create resourcing and timeliness requirements that may need support under statutory authority. Importantly, information disclosure powers would be required to facilitate the competition assessments and cost modelling.

Comments on change option three (“significant change”)

49. As change option three includes many of the requirements set out for change option two, the comments provided in the paragraphs above are also pertinent to change option three.
50. As explained above, the Commission has the expertise to conduct the relevant competition assessments, by identifying areas of limited retail competition where the TSO retail price cap would need to remain in place. However, such assessments would be a poor proxy for identifying areas potentially containing CNVCs for which a competitive tender process would likely be applied.
51. Whether a group of customers is likely to be commercially non-viable depends on the costs of maintaining and renewing the underlying infrastructure, and these costs are usually closely related to the topography and customer density of particular geographic areas. These are also largely costs faced by the TSO network provider rather than the service provider.
52. Rather than going through the extensive process of identifying TSO-zones and tendering-out service provision to those zones, we suggest the RBI may provide a better solution. The RBI has the potential to provide the most effective mechanism for TSO services, because it is designed to identify a network provider, and to provide a platform for competitive service provision.

Conclusion

53. The comments provided above (and in Attachment A below) have been prepared to assist the Ministry with its review of the TSO. We appreciate the opportunity to comment and hope our submission is useful.



Dr Stephen Gale
Telecommunications Commissioner
Commerce Commission

Attachment A – Responses to TSO discussion document questions

Questions and answers relating to Chapter 1: Introduction

Question	Proposed response
<p>1 The Act requires the Ministry to take into account several review objectives. These objectives are wide-ranging. In the context of the TSO, do you have any comments on how best to interpret:</p> <ul style="list-style-type: none"> a. the long-term interests of end-users of telecommunications services; b. the long-term interests of commercially non-viable customers c. the legitimate business interests of TSO providers; d. the importance of TSO providers receiving a reasonable return on the incremental capital employed in providing the services required under deemed TSO instruments; e. the incentives and capabilities of TSO providers and other telecommunications service providers to invest, and the impact of TSO reform on those; and f. the effects of TSO reform on competition in the telecommunications services markets. 	<ul style="list-style-type: none"> a.) We generally consider that the long-term interests of end-users of telecommunications services are best served by promoting competition between telecommunications service providers—where feasible. b.) The Commissions does not take a view on matters such as affordability and social inclusion, which underpin the long term interests of commercially non-viable customers. c.) The legitimate business interests of TSO providers parallels the considerations in section 18(2A) of the Telecommunications Act 2001. d.) See c.) e.) We have not identified any specific issues that arise from the options provided in the Ministry’s discussion document, in relation to the incentives and capabilities of TSO providers and other telecommunications service providers to invest. f.) At this stage, we do not see a potential effect of TSO reforms on telecommunications competition in general. We propose to comment further as the options are narrowed. <p>In addition to the comments provided above, we address the application of the stipulated considerations (identified in this question) in our answers to further questions provided below as and when they arise.</p>

Questions and answers relating to Chapter 2: the TSO requirements

Question	Proposed response
2 Do you agree with the Ministry's description of the current TSO policy objectives?	Yes: the description of the policy objectives in section 2.1 is consistent with our understanding of the TSO.
3 In your option, what should the relevant policy objectives be in the medium term future?	We consider that it would be useful to align the TSO policy objectives as much as is practical with other policy objectives in the telecommunications market (eg, UFB, RBI, and those that might be formulated as part of the Telecommunications Regulatory Framework Review) to limit overlap and inconsistencies.
4 Do you agree with the Ministry's description of the way in which the Service and Network Deeds have operated in practice as they were designed to operate?	Yes.
5 Do you consider that the Service and Network Deeds have operated in practice as they were designed to operate?	<p>The Commission generally has a limited role in the annual monitoring and assessment of targeted service quality measures related to the network operation/technical service delivery of the TSO. The Commission receives annual performance reports from the TSO providers, which are assessed against the service quality measure targets in the deeds. This performance is then communicated to the Minister of Communications and Information Technology.</p> <p>It is difficult for the Commission to answer this question authoritatively as we did not have a role in establishing these measures. Similarly the Commission does not have any role in the on-going analysis and interpretation of the TSO providers' performance against these measures in terms of the policy objectives underpinning the TSO. However, the Commission is willing to participate in any discussions on the development of new performance measures.</p>

Questions and answers relating to Chapter 3: trends in the telecommunications industry

Question	Proposed response
6 Has the Ministry accurately identified the coverage trends relevant to the TSO review?	Yes. In particular, see the graph in our preamble to these questions. The trend suggests targeting the TSO more closely.
7 Has the Ministry accurately identified the competition trends relevant to the TSO review?	<p>The Ministry has accurately identified some competition trends relevant to the TSO. However, it would be useful to examine more disaggregated data to identify the extent to which competing services are suitable for customers outside urban areas. For example, this could be done by tracking (over time) the customers who were likely to have been commercially non-viable in 2001, to assess the extent to which they may have benefitted from the increases in competition. We also have some specific comments:</p> <ul style="list-style-type: none"> • Paragraph 101 discusses the number of unbundled copper local loops in 2012 and may understate the extent of retail competition. We understand there are now about 180 exchanges unbundled (including exchanges in many provincial towns), and three quarters of all lines are connected to exchanges that are unbundled. • Paragraph 104c compares the \$19 prepay bundle with the Homeline charge of \$51. We understand the average Homeline consumer (household) uses 260 minutes of free local-calling per month, and a Telecom mobile prepaid customer could get 270 minutes of calling for \$41. • The discussion in paragraph 105 potentially underestimates the coverage of the 2G network— we understand 97% of the population is within the 2G footprint.
8 Do you agree that some customers in rural and remote rural areas are likely to remain dependent on PSTN voice and dial-up data services in the near to medium term future?	Yes. We do not have a good idea of the number. As an upper bound we suggest seeking out the number of end-user connections not capable of supporting UBA and outside mobile coverage. We could work with Telecom and Chorus to count and locate these lines. In the longer- run UBA and mobile seem likely to be able to meet all the current TSO service requirements.

Question	Proposed response
9 Has the Ministry accurately identified the service-usage trends relevant to the TSO review?	Yes, but see the suggestions in our answers to questions 7 and 8.

Questions and answers relating to Chapter 4: the continued need for a TSO

Question	Proposed response
10 Do you agree that the removal of TSO protections would result in the TSO policy objectives not being met in some areas and/or nationally? If so, which areas would be affected?	<p>Yes. As discussed in our preamble, there are some areas where Telecom has no effective retail competition so removal the retail price cap could potentially result in a price rise in these areas.</p> <p>If the network requirement were removed, then potentially Chorus may cease serving some high cost customers in the longer-term. It is not clear whether any customers are generating cash losses so they are likely to be worth continuing to serve until major replacements are required.</p>
11 Is a transitional period required for the removal of services that rely on dial-up data services, such as facsimile? If so, how long should it be? Please explain your views.	We have made no study at this point, of the extent of use of these services, the life cycle of the equipment involved, or the costs of alternatives.
12 Is a notice period required when a provider ceases to use copper connections? If so, how long should it be? What other considerations might be relevant to the transitional process?	We think the best examples of notice periods for significant change in the telecommunications market, is Telecom's movement of customers off the 025 mobile number series and the shutdown of the CDMA network. However, the Commission does not have any specific experience of deciding on notice periods for this type of market alteration.
13 Do you think the TSO status quo should be retained? Please explain your view.	The Commission does not have a final view on the options because they involve social policy considerations. There may be some benefit in retaining the status quo to maintain certainty in a time of major telecommunications infrastructure development. This would particularly be the case if the expected net benefits of changing the TSO arrangement are expected to occur after the UFB/RBI rollout, and if the net benefits of the preferred change option are subject to uncertainty.

Question	Proposed response
<p>14 As a specific aspect of the status quo, the Ministry is required to consider the impact of the current TSO funding arrangements, and the current way in which TSO costs are calculated on:</p> <ul style="list-style-type: none"> a. TSO providers; b. market competition; c. the development generally of the telecommunications industry. <p>Do you have a view on these impacts?</p>	<p>If the decision was to retain the status quo, the question of what to do with the TSO could be addressed as part of phase two of the Telecommunications Regulatory Framework review.</p> <p>We see little adverse effect of the status quo on the TSO providers, Chorus and Telecom.</p> <p>The Commission is required to calculate and determine the cost of the TSO to Chorus, if Chorus concludes that the UCLFS price does not cover its total costs. To date we have not received a request from Chorus for a calculation. We acknowledge that such a request could be regarded by Chorus as risky. Calculating the cost would be complex, perhaps comparable to the FPP for UCLL. As part of a calculation we would also need to consider any implications resulting from the Supreme Court TSO judgement.</p> <p>Given Chorus has to use a copper local loop or similar technology to provide service to high cost customers, those customers may not be being served in the most cost efficient manner if they do not actually value copper-based dial-up and alarm monitoring highly.</p> <p>We see no apparent adverse effect of the service obligation on Telecom, at least until PSTN equipment requires replacement. Even at \$51 per month, there is no competition to provide a switched voice service to a small set of remote end-users. Telecom can ask for a price increase if there is an impairment of overall profitability.</p> <p>As discussed earlier, there is likely to be retail competition in most areas, allowing customers to receive services better than those specified in the TSO, so current arrangements are unlikely to limit retail competition.</p>
<p>15 Do you consider that using premises connected to the 2013 Chorus fixed line network is an appropriate way to define residences covered by the TSO?</p>	<p>The Commission notes that any new connections outside the 2001 network footprint have been connected voluntarily by service providers and a capital contribution towards the connection cost may have been made by the property owner. It seems unlikely that such customers are commercially non-viable.</p>
<p>16 Do you consider that the CPI is the appropriate increment for increases to the</p>	<p>We are reluctant to comment because TSO pricing is the result of a past negotiation between Government and the TSO providers, so changes are more a matter of policy than an assessment of</p>

Question	Proposed response
monthly line rental price, or should an alternative increment be used? If so, what should this increment be?	costs relative to prices.
17 What impact would your suggested change in increment have on the ability of Telecom to receive a reasonable rate of return on the incremental capital employed in provided its TSO services?	As above, Telecom is probably earning more than its short-run costs but possibly less than the long-run costs of a switched voice service to the TSO target consumers. Telecom can ask for a price increase if the overall profitability is impaired and so should avoid any risk of not earning an adequate return on incremental capital.
18 What impact would your suggested change in increment have on the incentives and capabilities of Telecom to invest in new and improved telecommunications facilities and services?	Investment incentives depend mostly on the prospect of additional revenue (or cost savings), not on existing profits.
19 Do you consider that funding the TSO requirements through cross-subsidisation by Telecom and Chorus is appropriate? If not, please explain why.	See our answer to question 16.
20 Do you consider that the existing backstop-funding mechanism in the Act continues to be appropriate?	Yes. Chorus is unlikely to be making a short-run loss on remote phone lines at the UCLFS price, and has access to the cost calculation in the long-run. Telecom is on a similar position with respect to its switched voice facilities.
21 Do you agree with the benefits and costs of Change Option 1, as described by the Ministry? If not, please explain your views. Please describe any additional benefits or costs that you consider relevant.	The benefits and costs provided in the discussion document provide a useful summary.
22 Do you consider it appropriate that TSO protections should be confined to areas of the country with limited competition for	We agree that the possibility of isolating TSO-zones should be explored further. We have suggested one approach in our answer to question 8.

Question	Proposed response
TSO services (“TSO-zones”)? If so, how should these TSO-zones be determined and defined?	
23 Do you agree that a price that better reflects industry costs is more appropriate than the current CPI price cap? On what might that price be based? If a price freeze applied, how might the price be removed in future?	See our answer to question 16.
24 What impact would a frozen price cap, or a cost-modelled price cap, have on the ability of Telecom to receive a reasonable rate of return on the incremental capital employed in providing its TSO services?	See our answer to question 17.
25 What impact would a frozen price cap, or a cost-modelled price cap, have on the incentives and capabilities of Telecom to invest in new and improved telecommunications facilities and services?	See our answer to question 18.
26 Change Option two includes a residual services obligation (RSO) outside TSO-zones that would require Telecom to continue to offer a voice service with free local-calling, but at a commercially set line rental price. Do you consider that this RSO is appropriate?	It is difficult to see why a ‘free’ local-calling option will not be continue to be provided in competitive areas as long as there is a demand for such a service.
27 Do you consider that funding the TSO requirements through cross-subsidisation by Telecom and Chorus across a national	See our answer to question 16.

Question	Proposed response
<p>footprint that includes all Telecom and Chorus fixed network customers is appropriate? If not, please explain why, and what alternative footprint would you recommend.</p>	
<p>28 Do you agree with the benefits and costs of Change Option 2, as described by the Ministry? If not, please explain your views. Please describe any additional benefits or costs that you consider relevant.</p>	<p>We agree with exploring TSO-zones in order to focus any intervention.</p>
<p>29 Should a contestable model be adopted for the service level of the TSO? If so, please explain why. If not, please explain which problems would make a contestable model undesirable.</p>	<p>We generally support a contestable approach in terms of network provision where it seems likely to help discover the least cost solution. As described earlier, we find it easiest to think of the RBI replacing the TSO by upgrading network coverage at a wholesale level, and relying on retail competition to deliver the services. Thus any tendering process seems more natural at the network level.</p> <p>For example, the RBI could involve tendering when a particular access system in a specific area reaches the end of its useful life, eg, a multiple access radio system in the Marlborough Sounds.</p>
<p>30 Should other more targeted mechanisms than the TSO be used for identified areas of poor service eg, extension of the RBI concept?</p>	<p>Yes, an extended RBI is our conceptual model of a targeted TSO. The current TSO provides for only a low minimum service requirement, so if a better quality data service is required in remote areas, then a more targeted mechanism like the RBI would be more appropriate.</p>
<p>31 At what point in the future do you consider that a contestable model should be adopted? Would the date of completion of the RBI be an appropriate point?</p>	<p>[No comment].</p>
<p>32 If a contestable model were introduced, what source of external funding should be used?</p>	<p>[No comment].</p>

Question	Proposed response
33 Do you agree with the benefits and costs of Change Option 3, as described by the Ministry? If not, please explain your views. Please describe any additional benefits or costs that you consider relevant.	The pros and cons as described for change option three provide a useful summary but it would appear that further study is intended.
34 Do you consider the idea of a retail service requirement (*), applicable to all retail service providers, has merit, either for the TSO or RSO. Please explain the reasons for your position.	Retail voice services can easily be provided by providers other than Telecom and currently other retailers do typically offer 'free' local-calling so it appears unnecessary to compel them to offer such a service. Competition should ensure efficient retail service provision.
35 Do you consider the idea of a universal TSO requirement applicable to all retail service providers, and/or all network providers, has merit? Please explain the reasons for your position.	Our suggested model is the RBI. We note it appears unusual to create such as extensive retail service obligation, which would impose extra cost for indeterminate benefit. The RBI confidently relies on retail competition.
36 Which of the approaches described [in Section 2.1 of the Discussion document] best meets the TSO policy objectives? Are there other options that you consider better meet the TSO policy objectives?	[No comment].
37 In considering these approaches, are there any relevant regulatory issues that the Ministry has overlooked?	We assume the Ministry will align TSO policy with any changes to copper network pricing.
38 If technology neutrality were adopted, and the Service TSO provider chose to provide services over platforms other than the dial-up network, how should the cost of new customers premises equipment (eg,	Often the cost of new customer premises equipment is addressed as a competitive matter between retailers.

Question	Proposed response
modems, antennas) be funded?	
39 Do you agree that an obligation to offer free local-calling should remain part of the TSO?	While we do not have a specific view on free local-calling as an end in itself, we note that the consumer preference for bundled services is high, particularly for bundles of mobile services. Many mobile bundles include free calling to a level comparable with average fixed line calling.
40 Do you consider that a mobile service should be added to the TSO? Please explain why.	[no comment].
41 Do you consider that capability to access a broadband (rather than dial-up) data service should be added to the TSO? Please explain why.	This is a social policy judgement. Having said that, it is not obvious why any TSO reform would simply remove the existing (dial-up) data service, which clearly still has value to some users. This judgement needs more cost analysis.
42 Is this an accurate description of the current situation regarding connection practices? [refers to paragraphs under 4.6.1 of the Discussion document].	Yes, this is the Commission’s current understanding of the situation regarding connection practices.
43 Should a “new connection” service be added to the TSO? If so, why? Should it apply just to individual residential premises or to greenfields developments as well?	[No comment].
44 If a “new connection” service were added, should the Network and Service TSO providers subsidise the connection? If so, to what level?	[No comment].
45 Do you think that a “new connection” service should be added for “waiters” for TSO services, where the customer cannot be connected within a reasonable period using	It is not clear that this is specifically a voice service problem, and it may be better dealt with by a self-regulated industry code of practice.

Question	Proposed response
existing infrastructure? If so, how should such a service be funded?	
46 Given the availability of directory information electronically, is it necessary for the TSO to continue to include a requirement to distribute a phone book to each residence?	[No comment].
47 Is it still necessary for the TSO to include requirements for making the 018 directory assistance available?	[No comment].
48 Should TSO telephone directory requirements (if any) be expressed as currently through the Local Service TSO with Telecom, or should such requirements be separated into a TSO instrument between the Crown and the YPG directory company?	[No comment].
49 Which elements of the current quarterly 111 reporting remain useful and/or relevant? Should any other measures or matters be added to the reporting, and what are the likely costs of doing so?	[No comment].

Questions and answers relating to Chapter 5: implementation considerations

The Commission already has a role in administering the service quality measure regime for the existing TSO, and would value the opportunity to participate in the development of future service quality measures. However, the process of considering and determining any change to the TSO is at a preliminary stage, and consideration of the form and function of service quality measures will really depend on the details of the preferred option once selected. We would value the opportunity to assist the Ministry once it has more detail about its preferred option.

Question	Proposed response
50 Do you agree with the advantages and disadvantages of the options for implementing a revised TSO, as described [in paragraphs under 5.2.3]? Do you consider that there are additional instruments that could be used?	[No comment].
51 Do you think that the types of Service TSO and Network TSO performance measures described [under 5.3.1] are appropriate? Should there be any other measures?	[No comment].
52 Can performance measures be technologically neutral or do they need to be technology-specific?	[No comment].
53 Do you consider that minimum, rather than average, service levels should be measured?	[No comment].
54 Do you consider that performance measures should be averaged regionally rather than nationally?	[No comment].
55 How should revised performance measures be set? Which organisations should be involved in their preparation?	[No comment].

Question	Proposed response
56 Are specific performance requirements in a Deed the best way to deal with breaches of performance standards?	[No comment].