

11 February 2013

Hon Amy Adams
Minister for Communications and Information Technology
Parliament Buildings
WELLINGTON

Email: Catherine.McLeod@parliament.govt.nz

Dear Minister

Review of Telecommunications Regulation

Thank you for your letter of 8 February advising me of the start of the two reviews of the regulatory framework for telecommunications that are provided for by sections 101A and 157AA of the Telecommunications Act 2001. We look forward to working with the Ministry on these reviews.

Your press statement announcing the reviews referred to legislating this year to extend the deadline for the implementation of cost-based UBA and completion of the UBA price review to a date no later than 30 November 2015. Setting back these deadlines is intended to allow time to give effect to any changes recommended by the framework review.

This raises the question of what is now the appropriate timetable for the Commission's current UBA review process. The current timetable is very much driven by timing constraints imposed by sections 77(1) and 78(3) of the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011. Under these sections, the Commission is subject to a timing imperative to complete the current review according to the 'Initial Pricing Principle'—and, if required, to complete a review according to the 'Final Pricing Principle'.

In our view, it would be appropriate to consult with industry on timing for next steps. The legal advice I have received is that we will need to be confident that the legislation this year will remove the existing timing imperatives if deferral is to be considered.

Can I suggest that the deadline provisions you have foreshadowed in your press statement replace section 77 and its associated deadlines, such as those in section 78 of the Amendment Act and Schedule 1 of the Act. I would be grateful for your confirmation as to the Government's intentions.

Following receipt of your response to this letter, we would propose to consult with industry. If we were to defer the process, we would expect to resume the review by the end of 2013 unless the deadline has been changed by then. If the pricing principle is overtaken by new legislation, we would expect the legislation to provide for a new timetable for the determination of the price, according to the changed principles.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Gale', with a stylized flourish at the end.

Dr Stephen Gale
Telecommunications Commissioner