



**TCF Submission to
Commerce Commission
on
Copper Services Investigation under section 69AH of the Telecommunications Act 2001
22 May 2024**

A. Introduction

1. Thank you for the opportunity to comment on the Commerce Commission’s (the Commission) proposed approach to the Copper Services Investigation under section 69AH of the Telecommunications Act 2001 (the Act). The TCF supports this investigation, the output of which will be of interest to the wider industry.
2. This submission is provided by the New Zealand Telecommunications Forum (TCF). The TCF is the telecommunications sector’s industry body which plays a vital role in bringing together the telecommunications industry and key stakeholders to resolve regulatory, technical and policy issues for the benefit of the sector and consumers. TCF member companies represent 95 percent of New Zealand telecommunications customers.
3. The TCF acknowledges the Commission’s obligation to consider whether there are reasonable grounds to undertake an investigation into the regulation of five copper services by no later than 31 December 2025 under section 69AH of the Act.
4. It is important for the Commission to review existing regulations and decide whether these are still fit for purpose and proportionate to the harm they were designed to avoid. In the case of this investigation, the Commission must consider whether the current regulation of copper services contained in Schedule 1 of the Act best promotes

competition in telecommunications markets for the long-term benefit of end-users of telecommunications within New Zealand (i.e. the purpose of section 18 of the Act).

5. The TCF supports the Commission's statement that it will "be mindful of the wider regulatory and competitive landscape including the TSOs, STDs and existing Codes".
6. The telecommunications sector has matured and developed significantly since the Act was first established and, most relevantly, since the Commission last gave consideration to investigating the deregulation of the relevant copper services in 2016. This includes the increase in availability of alternative services provided by satellite and wireless technologies, and the expansion of wireless networks (including as a result of government investment through the Rural Broadband Initiative).
7. There are a range of technology options and services available for many consumers. The Copper Services Investigation Approach Paper (Approach Paper) provides a comprehensive overview of the history of the copper network in New Zealand and how it has evolved. The 2018 Amendment envisaged a change in the technology landscape with the roll out of the UFB network and subsequent copper withdrawal programme, evident in the requirement for the Commission to develop a Copper Withdrawal Code. This is now in place and Chorus is actively implementing its copper withdrawal programme in areas where fibre is available.
8. With this in mind, carrying out an investigation is important to ensure the regulations remain fit for purpose, forward-looking and reflective of the reality of aging infrastructure becoming obsolete.

B. Response to specific proposed items in the approach paper

9. We broadly agree with the Commission's proposed economic framework. However, we emphasise the importance of the Commission:
 - i. accurately portraying and giving appropriate weight to the level of competition that exists in telecommunications markets, and that those markets will see in the future, noting the dynamic nature of the telecommunications industry;
 - ii. accurately identifying credible (based in reality) factual and counterfactual scenarios to use for the purposes of competition analysis in the context of a decreasing copper customer-base and the effect of competition on the remaining customer-base, retail providers exiting from providing copper services, and the aging infrastructure used to supply copper services;
 - iii. taking a future-focused and forward-looking approach to its investigation, rather than comparing historic levels; and
 - iv. undertaking an appropriate cost-benefit analysis of any potential amendments to Schedule 1 of the Act.

10. Finally, we acknowledge the importance of the Commission using the most contemporaneous data it can obtain in undertaking its investigation. The Commission will already have a significant amount of recent data as a result of information requests made last year, including for the purposes of its Annual Monitoring Report and rural connectivity study. We encourage the Commission to consider the burden information requests can put on TCF members, and to ensure any information requests for the purposes of this investigation are as targeted and consolidated as possible to ensure that burden is mitigated.
11. If the Commission has any questions about this submission, we would be happy to discuss them. [REDACTED]