

tuanz



Submission on the Proposed Approach Paper

New Regulatory Framework for Fibre.

Commerce Commission

21st December 2018

Introduction

1. TUANZ is pleased to submit this response to the paper dated the 9th November 2018 on the proposed approach by the Commerce Commission to the recently legislated framework for fibre based services post 2020. This submission is a Public Version and contains no confidential information.
2. Our address is PO Box 302 469, North Harbour, Auckland 0751 or Level 7, 62 Victoria Street West, Auckland Central. Our email address is office@tuanz.org.nz and our website can be found at <https://www.tuanz.org.nz>.
3. We thank the Commission for the opportunity to participate in this process and look forward to being further involved in the process around the implementation of the new framework.

TUANZ

4. **TUANZ is the association for the users of digital technology and connectivity. We are unique - there is no other group or organisation that is representative of the people and organisations that are the end users of digital technologies in the manner that TUANZ is.**
5. Our member's want to see a lift in the digital economy along with the continued development of a strong market providing real choice for end users – whether corporations or consumers. We seek a national drive to leverage the opportunities that we have with our world leading digital networks. **TUANZ has the vision where New Zealand is in the top 10 countries for the use of digital technology.**
6. TUANZ position is consistent and clear: **The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**
7. TUANZ has been in existence for over 30 years, advocating for the continued improvement of the use and supply of communications technology to all end users of such services. We have continuously advocated that connectivity, and fast connectivity, will enable businesses to improve productivity and to deal far more efficiently with well-connected customers. Families, wherever they live, will become far better connected. Smart young Kiwis will be much more attracted to living here rather than overseas. The world's capitals will be on our electronic doorstep, while we will become earlier adopters of leading-edge services

like fibre-powered television on demand and the widespread use of cloud services for businesses such as on-demand accounting and photo storage.

8. TUANZ is a not-for-profit membership association with over 170 members, predominantly corporates and organisations with a strong dependency on digital technology and connectivity as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

Our approach to this submission

9. The Commission's paper is a comprehensive document that covers a wide range of issues. A significant amount of those relates to the technical implementation of the chosen model to give implementation to the new regulatory framework included in the amended in the Telecommunications Act.
10. We have chosen not to provide specific answers to the questions general issues. Instead we have identified 3 general areas on which we wish to provide brief comments. These can be generally aligned as follows:

Issue	Questions
Reliance on the Commission and s162	Questions 1-5
Building Blocks model	Questions 6-24
Service Quality IM	Questions 25-29

Reliance on the Commission and s162

11. TUANZ is an organisation that has over its history been successful in seeing positive change usually based on the passion and willingness of staff and volunteers.
12. As is often the case with membership based organisation, TUANZ has little or no resources that are able to be spent on expensive expert advice, whether it be dedicated internal staff or external experts. This is in direct contrast to the majority of organisations that will provide submissions to the Commission on this matter.

13. We have previously drawn the attention of decision makers to this serious in-equality of information and ability to provide full technical commentary on paper such as this, but the situation remains unchanged.
14. The Commission will receive a number of submissions from different players in the relevant market, all with their own specific position to advocate for. The wholesalers will provide highly detailed papers with expert reports around their aim of ensuring their return on the investment made will be as high as they are able to (within self-imposed bounds) to ensure their ongoing operations and returns expected by their shareholders. The retailers will also provide detailed and often complex arguments as to why their input price from wholesalers should be as low as possible allowing them to compete and retain margin in their businesses.
15. The parties should not be faulted for their approaches - they will always act in an economically rational manner which should be of no surprise to any independent reviewer or commentator.
16. It is for these reasons that the purpose of the legislation is outlined clearly in s162 as being to “promote the long-term benefit of end-users...”. Our perspective will always line up with this purpose. This means on occasion we will support the views of the retailers, on occasion it will be aligned with the wholesaler, and on others with neither view. Through this ongoing process we will endeavour to point those out through any submissions.
17. TUANZ has always been supportive of the independent role that the Commerce Commission plays in the regulation of the telecommunications market which has been subject to various forms since the introduction of the 2001 Telecommunications Act.
18. With our paucity of resources, we place a high reliance on the Commission and its experts to reflect this independence and to give full cognance to the purposes as outlined in the Act in s162 and s166(2)(b). We agree with the Commission's sentiment at 5.30 in the paper:

“When we make our decisions to promote the outcomes listed in s162 we must focus on the long-term benefits of FFLAS end-users in the retail markets, rather than acquirers of FFLAS in the wholesale market...”

We also agree with the statement at 5.39.2:

“Section 166(2) directs us to make decisions that promote the purpose in s162. This is a mandatory consideration.”

19. We would make one further note at this point. Due to the timeframes around cross-submissions due in late January, and the leave requirements of TUANZ staff, we will be unable to provide a submission at that time, and instead will await the initial paper due from the Commission later in 2019.

Building Blocks Model

20. As part of the original review of the Telecommunications Act we supported the work to aligning the future regulatory pricing model on Part 4 of the Commerce Act. Specifically we agreed that the Building Blocks model was the appropriate methodology for implementing a new pricing regime for fibre based access services. Our view remains the same and so we agree with the view of the Commission as outlined at 5.86 in the paper.
21. As already alluded to above, we as an organisation do not have the required expertise to produce meaningful comment on the specific mechanics of the processes proposed, other than to again reiterate that the overriding requirement of s162, and the long term interests of end users remains paramount.
22. We are somewhat reassured through the knowledge that the Commission has significant expertise and experience from other industries in the application of the building block model. When combined with other previous work with developing things such as regulated asset bases for other access services, we believe the Commission will remain independent and focused on the right outcomes. We look to full and transparent reasoning from the Commission through this process to enable us to retain confidence in the understanding of the impact on end users.
23. We would remind the Commission that in this application of the model that it will be somewhat different from other industries because of the fast moving developments in technology, including the possibility of disruption through new access services, as well as developments in fibre based delivery. We remain concerned that the proposed Anchor Product definition will not meet the future needs of end users and we will work to provide the Government and the Commission with as much feedback from our members as possible around the use of services and their requirements as they develop in the future.

Service Quality IM

24. As the paper recognises and the legislation foresees, one of the ways that the regulated wholesaler can ensure they maintain their margins, is to reduce the quality of the service, or the ancillary support services that are required to deliver the service. We agree with the approach of the Act to require an IM for quality dimensions. We will look to work with the Commission process on developing this particular IM.
25. We have read the CEPA report and agree with its general approach to the elements that make up the service pipeline.
26. Our initial concern around this work is that the service quality that end-users perceive will be based on the end to end service experience. This will be made up of actions from the retailer as well as the wholesaler. The Commission will need to ensure it takes a careful overview of both the current IM as well as the Retail Service Quality work.
27. For the wholesale quality IM we favour a mixed principle and prescriptive approach. This would require the IM to outline in the general expectations of the services including a requirement to meet the levels needed to support the required service levels from the Retail Service Quality work. There should be a small number of key measures identified and specified to ensure a specific level of service is maintained. Reporting on performance should not just become a compliance regime without an encouragement to improve performance.
28. Critical will be the transparency of reporting under the regime in a way that is simple and easy to understand for users of the services. It should not require an amount of expertise to understand the reporting. Users should be able to read the report and compare to their actual experience.
29. We look forward to working with the Commission on this IM and ensuring that end users views on what these quality dimensions and the key measures should be.

Conclusion

30. Our members expect us to represent their views and we will continue to do so. We also recognise that we have a responsibility to speak for all end users, including consumers as well as our corporate members.

31. Thank you for the opportunity to submit on this paper. We intend to remain fully engaged with Commission's process where we are able, and feel that we can competently comment.

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