

**VODAFONE NEW ZEALAND LIMITED  
SUBMISSION TO THE MINISTRY OF  
ECONOMIC DEVELOPMENT**



**vodafone**

**Telecommunications Service Obligation Discussion  
Document**

**15 October 2007**

# I Summary

1. Vodafone strongly supports reform of the Local Service TSO.
2. The defects of the TSO are well known and do not need to be further traversed in detail. In short, the scheme as it stands is both inefficient and unfair.
  - It is inefficient because it results in high costs per subsidised line and these costs are rising over time. It also prescribes fixed-line solutions when other technologies may be more efficient.
  - It is unfair because we are forced to subsidise Telecom, our greatest competitor, even in places where we have already built our own network capable of delivering a local service.
3. The two major objectives of the Local Service TSO are to ensure availability and affordability for a basic phone service. We support these objectives, and the submission of the TCF that a Working Party be established to find a way to change the existing Local Service TSO to best achieve these objectives.
4. It is too soon to have a broadband TSO. Establishing one at this stage may replicate the undesirable side-effects of the current Local Service TSO in the broadband market. This could have negative effects on the development of competition in a strongly growing and vigorously competitive market.
5. We consider that the issues raised in the Discussion Document with regard to emergency services can be effectively dealt with by the recently established TCF Emergency Services Working Party.

## II Introduction

6. We appreciate the opportunity to comment on the Ministry's Discussion Document *Telecommunications Service Obligations Regulatory Framework*.
7. TSO instruments can be useful for helping to meet certain social objectives. We agree with the Ministry's view that TSO instruments should be used as a last resort in situations where commercial solutions or, we would add, industry self-regulatory systems are not appropriate. They also need regular reviews, like this one, to ensure they remain relevant and are efficiently delivering the intended outcomes.
8. The Local Service TSO in its current form was designed for a time when Telecom's PSTN network was the only feasible means of providing a voice service and there were concerns about the impact of leaving customers in the hands of a monopolist. In that context the Local Service TSO has provided an effective backstop to ensure that New Zealanders could access an affordable basic telephone service.
9. Times have moved on and there are an increasing variety of ways in which people can access telephone services, and an increasing variety of services. The strong growth of the mobile phone market is a good example of this. In addition, the expansion of internet services and, particularly in this context, the growth in popularity of VOIP services delivered over a variety of technology platforms, are challenging the way we think of a basic voice telephone service.
10. There are also a much larger number of service providers capable of providing local services now compared with 17 years ago when the original Kiwishare obligation was established.
  - Vodafone estimates that on the launch of our home phone service, which uses our cellular network to provide an experience very similar to that of a current landline service, we can serve approximately two thirds of households currently defined as commercially non-viable by the current Local Service TSO on commercial terms.
  - New Zealand Communications has recently stated that it would be economically viable for a new entrant to provide mobile telephone coverage to all TSO customers.<sup>1</sup>
11. In light of these changes, the current Local Service TSO is no longer appropriate. We therefore strongly support reform of the Local Service TSO. Given the distortions and absurdities created by the Local Service TSO, we believe it needs fundamental reform. It is still likely that there will be a requirement for some type of TSO mechanism to meet the Government's objectives but we see it as being very different from the current mechanism.

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<sup>1</sup> New Zealand Communications Limited, *Cross Submission on the Draft Report to the Schedule Three Investigation into Amending the Roaming and Co-Location Services*, page 2.

### **III Telecommunications Carriers' Forum Proposal**

12. The Telecommunications Carriers' Forum (TCF) has also made a submission on the Discussion Document. Vodafone has contributed to, and supports, that submission.
13. Carriers and the Telecommunications Users' Association of New Zealand (TUANZ) agree that the local service TSO is no longer an appropriate means of achieving the objective of ensuring affordable, widespread coverage of a basic telephone service.
14. The TCF believes that the industry can work closely with the Government to produce a sustainable solution for meeting the Government's objectives. We have asked that the Minister ask the TCF to report to him on:
  - recommended minimum industry standards that set out what New Zealand consumers should expect from a basic voice service. The proposed standard should be technologically and provider neutral, encouraging competition and innovation;
  - options to encourage competition and innovation in rural areas. While the industry cannot make a judgment on an appropriate level of affordability, we can inform the Government's thinking on what competitive offerings are realistically possible at different price levels;
  - options for ensuring a basic voice service continues to be widely available at an affordable price. The proposed options should remove elements of the current TSO approach which may adversely impact on competition and investment in the telecommunication industry; and
  - a recommended transition plan towards the new arrangements.
15. The proposed minimum standard would complement the work already underway in the context of the TCF Emergency Services Calling Working Party and parallel Officials' working group.

## **IV The TSO framework**

16. The discussion document raises the question of whether TSO instruments are an appropriate mechanism for achieving the Government's objectives for telecommunications. It states that these objectives are ensuring the delivery of cost efficient, timely and innovative telecommunications services on an on going fair and equitable basis.
17. The best way to meet these objectives is to ensure there is a regulatory regime that promotes investment, certainty and competition across competing infrastructure.
18. For areas that are never likely to be contested commercially, or for services that are unlikely ever to be commercially provided, USOs can be useful as a way to ensure basic requirements are met – in this way they can be seen as analogous to a safety net.
  - It may be useful to have a mechanism in place such as the TSO to ensure that basic services can be provided when not having access to such services is an issue of social exclusion.
  - USOs may also focus on affordability in recognition of the price protection that may be needed in cases where customers can only be served by one provider and that situation is likely to continue for some time.
19. We therefore see TSO instruments as something that should be used very rarely. They are likely to focus on relatively few customers, and services that are unlikely to be provided commercially. Before establishing a TSO instrument, we also consider that the government should allow an opportunity for the industry to work together to propose a solution.
20. It is also important to consider the objective of the proposed instrument. If the objective is purely one of social policy in our view it is more appropriately funded through general taxation than through an industry levy.

## **V Broadband TSO proposal**

21. We are pleased to note the Government's continued acknowledgement of the value that telecommunications add to the New Zealand economy. But we do not consider that a TSO mechanism is an appropriate means of improving access to broadband for rural users at this stage of the market's development.
22. Broadband has great potential to increase productivity and change the way people work. In particular we are excited by the productivity enhancing possibilities of mobile broadband.
23. The economics of delivering fast broadband services to remote areas are a challenge, whether services are provided by copper, cellular, fibre, WiMax or other wireless technologies. This is an issue faced in most countries and has been the subject of much consideration by governments.
  - There are challenges with access networks as DSL requires relatively short copper loops to deliver reasonable speeds. Wireless networks can also face challenges when covering certain types of terrain.
  - Another major challenge is the backhaul requirements, which become more challenging as higher data rates and larger downloads become the norm. This is true for any access network technology.
24. That said, we think that a USO approach for broadband is inadvisable at this stage for four main reasons:
  - USO are generally designed to address the provision of services where a lack of access could be considered an issue of significant social exclusion. We question whether broadband meets this criterion yet.
  - A broadband TSO would be inconsistent with current regulatory and government initiatives.
  - It would damage the development of the market, discourage competing technologies and punish smaller providers.
  - In summary, declaring a broadband TSO could not be in line with the requirements of the Telecommunications Act.
25. We cover each of these points in more detail below.
26. We note that a contestable fund approach is more common internationally for government interventions designed to improve broadband access.
27. However, any government interventions need to be carefully considered to ensure they are as technology neutral as possible. For example, a government pool of funding could be used to support regional fibre backhaul. This can in turn be used by carriers over a variety of access networks from mobile broadband, to WIMAX or to service copper exchanges.
28. There is also a need to carefully consider the funding of such an intervention. If the Government considers that fast broadband is important for improving productivity in the regions it is appropriate that any funds for doing so come from general taxation

rather than a levy on the industry. We would have grave concerns about a substantial tax on our activities to pay for extensions to another operator's broadband network.

29. We look forward to engaging with the Government on these issues when it issues its rural broadband discussion document.

### **Broadband as an essential service**

30. As previously mentioned USOs can be considered analogous to a safety net where the market may not otherwise provide services on reasonable terms or at all, and where access to services is an issue of social exclusion.
31. The discussion document provides a list of '*Rules for considering whether broadband should be a USO*'. The first of these rules relates to the point above this when it states that consideration should be given to whether broadband is "an essential service of significant 'social importance'".
32. We question whether broadband penetration is at a level yet that indicates that not having access would be an issue of significant social exclusion. It is highly desirable and an extremely useful service but we are not convinced that it would yet fall into the same category of essential services as we might view things such as water, electricity or basic voice telephony services. This is likely to change over time – for example if important government services were delivered via broadband and market penetration was very high there may be an argument for using a USO to plug any gaps in provision that were a result of supply problems.
33. We are still some way from this point however and the point of full penetration will come much more quickly if greater competition is allowed to develop.

### **Connection with market developments and current regulatory settings**

34. This year has been characterised by intense regulatory activity. Much of this has been focused on expanding access to Telecom's copper access network in order to boost the fortunes of those who use that network to provide broadband services.
35. Underlying the Government and the Commerce Commission's approach to these issues is the ladder of investment theory. This states that if competition is allowed to develop across the copper access network an appropriate regulatory environment will encourage competitors to use their revenues to invest in their own infrastructure. This in turn encourages competition across different networks and technologies, and this inter-modal competition is normally considered superior for consumers to service-based competition.
36. The current standard terms determinations for local loop unbundling and unbundled bitstream access have resulted in draft prices that are no longer averaged between rural and urban consumers. These de-averaged prices may have the effect of increasing the incentives for other providers to invest, in particular wireless providers. As the underlying ladder of investment theory would state, providers can invest in LLU to grow revenue and may then seek to expand their customer base and services by providing alternative networks where copper based networks are uneconomic.
37. The Minister recently announced an auction of 2.3 and 2.5 Ghz spectrum. In his

announcement he stated:<sup>2</sup>

"This spectrum is pivotal to the rapid roll-out of broadband wireless services. It will bring more choice and better access for those seeking to join the digital world, and will be of particular interest to rural New Zealanders."

38. The State-Owned Enterprise Kordia noted at a recent Commerce Commission Conference on Local Loop Unbundling that it is preparing a business case based on the widespread rollout of WiMax technology to the regions. We see Kordia as a credible investor experienced in deploying similar technologies and consider the prospect of it rolling out such technology realistic. This can only be good for competition for broadband in regional New Zealand.
39. Taken together this suggests that the conditions are being set for the market to start to provide broadband services in areas where it may not have operated effectively until now.
40. To put in place a broadband TSO now would be at odds with the entire approach underpinning the current regulatory framework.

### **A broadband TSO would damage the market, discourage competing technologies and punish smaller providers**

41. A broadband TSO would damage the development of the market. This would occur even if it were contestable.
42. The European Commission recently decided against adding broadband to USOs. After considerable investigation the Commission noted that:<sup>3</sup>

"A designated USO provider for broadband would strengthen its competitive position. The costs involved in such provision would be significant and raise barriers to entry for new operators. This could have the effect of reducing competition and consumer choice."
43. Vodafone considers a similar risk would apply in New Zealand. For example, if the role of designated Broadband USO provider was tendered out on a regional basis, smaller operators would be unable to meet the demands placed on them to provide the service. There could be considerable cost in tendering, monitoring service levels, and providing information to the regulator to ensure transparency. Realistically there are very few companies who could manage these compliance costs.
44. It is unlikely that a company winning a tender would provide services over a range of competing technologies and it would be difficult for other providers to compete against the subsidised service. This would narrow the range of technologies being used. Discouraging competition across technologies would stunt the development of the market.
45. As an example, it would worsen the business case for deeper rollout of Vodafone's wireless broadband network if it were competing against a regional subsidised broadband network. This effect would obviously be sharper if Vodafone itself had to

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<sup>2</sup> <http://www.beehive.govt.nz/ViewDocument.aspx?DocumentID=30350>

<sup>3</sup> Commission of the European Communities, *Annex to the Report regarding the outcome of the Review of the Scope of Universal Service in Accordance with Article 15(2) of Directive 2002/22/EC*, 7 April 2006 p. 16.

pay TSO levies to subsidise that other network.

46. Once a tender was won by an organisation able to bear the administrative costs and cover an entire region, smaller niche providers, for example those who provide wireless networks to remote areas using public park spectrum, or small scale local fibre initiatives could be forced to compete against a TSO subsidised network.

### **The requirements of the Telecommunications Act cannot yet be met**

47. The Telecommunications Act 2001 states that TSO instruments are established to "facilitate the supply of certain telecommunications services to groups of end-users within New Zealand to whom those telecommunications services may not otherwise be supplied on a commercial basis or at a price that is considered by the Minister to be affordable to those groups of end-users."<sup>4</sup>
48. As mentioned above the market is undergoing changes that will assist with the supply of broadband services to rural areas on a commercial basis. De-averaged wholesale prices will encourage entry in rural areas. Even in areas where DSL-based services are not available, the price where service is available could set a type of benchmark for what is considered a reasonable price for broadband based on other technologies.
49. As quoted previously the Minister appears enthusiastic about the possibilities for rural wireless broadband.
50. It would therefore seem premature to decide that broadband services would not be supplied on a commercial basis and be affordable for groups of end users. We do not consider the basis for creating a TSO instrument for broadband can be reasonably established at this point in time.

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<sup>4</sup> Telecommunication Act 2001, Part 3, s70(1).

## VI Responses to specific questions

Question number	Question	Vodafone Response
	<b>The TSO framework</b>	
3a	How important is the KSO/TSO framework as a component of the overall regulatory regime of New Zealand Telecommunications service	It has been a key component of the regulatory regime since 1990. It has played an important role in ensuring the availability and affordability of a basic service in the context of a monopoly provider. As stated above this context has now changed significantly and continues to change. The TSO now needs to be reformed to recognise that there is greater competition and a greater variety of ways in which voice services can be provided.
3b	How effective has the TSO framework been in achieving the Government's telecommunication objective of ensuring the delivery of cost effective, timely, and innovative telecommunications services on an ongoing, fair and equitable basis to all existing and potential users?	<p>The TSO in the current context is working against the Government's objectives of ensuring the delivery of cost effective, timely and innovative telecommunications services. While it has assisted in ensuring delivery of basic services to all it also results in a number of undesirable distortions in the market.</p> <p>The major concern for Vodafone is that we are required to subsidise our largest competitor, Telecom, even in areas where we operate our own network. Taking more than \$20 million a year from our bottom line and giving it to our largest competitor is a strange way to promote competition.</p> <p>The current mechanism also works against a dynamic market as it strongly bolsters Telecom's dominance in the fixed line market and has the additional undesirable side effect of locking in an inappropriate technology choice for many users. For many truly commercially non-viable customers cellular, wireless and satellite technologies can be much more cost effective choices than copper local loops. When an industry is required to fund such poor technology choices the incentive to provide alternative networks is inhibited.</p>
3c	Would other policy mechanisms be more appropriate than TSO instruments to achieve the Government's telecommunications objectives going forward?	<p>TSO instruments are not the appropriate mechanism for most of the Government's objectives for telecommunications. The appropriate means of providing for cost effective, timely and innovative telecommunications services on an on going basis is to ensure there is a regulatory regime that promotes infrastructure based competition, investment, and certainty.</p> <p>We explain this point in more detail in the body of our submission.</p>
3d	What are the strengths and weaknesses of the TSO framework?	See above comments.

	<b>Purpose and Market Impact of the Local Service TSO</b>	
4a	How does the Local Service TSO contribute to advancing the interests of Telecommunications users?	The Local Service TSO ensures delivery of basic voice services to all consumers at the same or similar price. But it comes with unfortunate side-effects that become more apparent with every passing year.
4b	Would the universal availability and affordability of local residential telephone services be better achieved another way?	We consider that the industry could best address this question, and produce a sustainable solution for meeting the Government's objectives. We support the TCF's suggestion that the Minister ask the TCF to report to him on these issues.
4b	What should be the focus of the local service TSO going forward?	To safeguard affordable access to voice telephone service for non-commercial customers in areas lacking competition.
	<b>Availability of Service</b>	
5a	Does the local service TSO effectively address gaps in the Commercial market for the availability of telephone service?	It addresses some gaps but its application is too wide, and it thereby stifles a commercial market. The definition of commercially non-viable customers includes a large number who are already covered by several commercial networks when mobile networks are taken into account.  Vodafone considers that we can serve the majority of households with a basic voice service and including free local calling on commercial terms. We therefore consider customers covered by our network to be commercially viable and they do not need to be covered by any TSO instrument to ensure service.
5b	Should the local service TSO requirements for service availability be retained?	This is an issue that should be considered by the proposed Local Service Working party.
5c	Should the geographic coverage requirements for the supply of TSO local service be extended to cover areas currently outside the TSO and why?	This is an issue that should be considered by the proposed Local Service Working party.
	<b>Service Performance</b>	
5d	Should the existing service performance measures be	This is an issue that should be considered by the proposed Local Service Working party, but at this stage we can see the value in a geographically constrained USO that is limited to areas where there is only one

	expanded, including down to geographic regional level to better ensure reliability of telephone service? If so what measures are recommended and why?	provider of basic voice services.
5e	Are there service measures that would better represent the aspects of service performance that are of most importance to users?	This is an issue that should be considered by the proposed Local Service Working party.
5f	Should penalty performance rebates apply for non-compliance by the local TSO provider?	This is an issue that should be considered by the proposed Local Service Working party, but we are attracted to simple arrangements that can be put in place between the TSP and customers (e.g., refunds if services are not of sufficient quality) rather than penalty arrangements that could be complex and contentious.
5g	Should there be reporting on the quality and capacity of network capabilities for supplying TSO local service?	If there is to be a system put in place where there is a particular TSO provider the focus should be on meeting agreed service levels. In our view requirements to report on network capacity go beyond what is necessary to provide a service for end users.
<b>Service reporting</b>		
5h	Should information about the TSO local telephone service supplied in commercially non viable areas be made publicly available by the TSO provider as part of its TSO requirements? If so why?	<p>We support broader availability of information on the location of TSO customers. At the very least, if a system is in place where industry levies are used to subsidise provision of service to commercially non-viable customers the location of those customers should be at least made available to those who are required to subsidise them.</p> <p>Making the information available ensures that carriers can assess whether a customer can be served on commercial terms or in a more efficient manner. In general transparency promotes greater accountability for efficient use of subsidies.</p>
<b>Convergence and Transitioning of NGN</b>		
5i	Should the gateway devices installed in customers' homes to support the supply of telephone service be required to have battery backup? If so	We believe this issue should be considered by the Emergency Services working party.

	why and should there be a requirement that battery backup last for a specified period?	
5j	Should a requirement for battery backup only apply for residential customers living outside mobile phone coverage?	We believe this issue should be considered by the Emergency Services working party.
5k	Should battery backup requirements be equally applicable across all providers (TSO and non TSO) of telephone access services and if so, should any requirements be prescribed by regulation?	We believe this issue should be considered by the Emergency Services working party.
5l	Should dial-up internet access be discontinued for TSO local service if a bitstream equivalent (ie NGN version) is supplied as a replacement?	This is an issue that could be discussed when the proposed Local Service Working Group considers a minimum standards.  We would certainly question whether a more technology neutral solution for narrowband data might be able to be found. Our GPRS network allows narrowband data speeds without the need for a dialup connection to be established.
5m	Do you have any concerns about aspects of Telecom's planned NGN local service?	
	<b>TSO Charge of Unspecified Amount</b>	
6a	Should the status quo prevail for setting the TSO charge compensating the Local Service TSO provider for meeting TSO requirements?	No. See our general comments on the desirability of removing the Local Service TSO in its current form. Although the scope of the TSO and therefore the overall quantum of the TSO liability is a major concern, the uncertainty and costs of establishing the TSO net cost each year are also a serious issue.
6b	If the TSO charge is to remain an unspecified amount should the prescribed methodology for	The TSO charge should not remain in its current form.  We have numerous concerns with the current methodology and the process. In short, it takes far too long

	calculating the TSO charge be changed?	(the Commission is around 3 years behind on the determinations), it is far too complicated, and it ends up with a result that pleases no one at all. We are so concerned with one particular error that we see in the modelling approach that we have taken an appeal against the Commission's 2003/04 Determination.
	<b>Uncontested TSO Charge of a Specific Amount</b>	
6c	Should a specified amount TSO charge be applied for the local service?	This issue should be considered by the proposed Local Service Working Party. A basic principle for many carriers is likely to be the value of certainty.
6d	How should any such 'specified amount' TSO charge be structured? Should there be a fixed charge and variable charge components?	See above
6e	Should a TSO Charge of a specified amount be linked to the Communications Producer Price Index (PPI) as a proxy cost standard for the telecommunications industry?	See above
	<b>TSO Provider Bearing all TSO Cost – no TSO Charge</b>	
6f	Should a TSO charge for local service be abolished?	This issue should be considered by the proposed Local Service Working Party.
6g	What importance do you place on the merits and risks outlined for abolishing the TSO charge?	This issue should be considered by the proposed Local Service Working Party.
	<b>Contested TSO charge of specified Amount</b>	
6h	What importance do you place on the merits and risks outlined above for contestability in compensating the local TSO service provider?	Contestability is one of the issues the proposed Local Service working party would like to consider. Contestability could be a more effective means of reducing the costs of serving commercially non-viable customers and of delivering more innovative services using alternative technologies.

6i	Do you agree that contestability can only be expected to bring net benefits in areas which are commercially non-viable?	There is no reason to apply a TSO in areas that are commercially contestable.  In areas that are non commercially viable, a contest for a subsidy for a period in return for providing services may bring benefits.
6j	What form of contestability would best achieve the service objectives?	This issue could be considered by the proposed Local Service working party.
	<b>Linking Compensation and Investment</b>	
6k	How should investment be linked to compensation of the TSO provider for local telephone service?	Investment and compensation should not be directly linked. We see TSO instruments as service obligations not investment obligations. As long as service levels are being met and can be met for the period the TSO provider is providing the service the provider's investment levels are rightly the concern of the provider.  Appropriate incentives to avoid a failure to meet service levels would encourage providers to make the appropriate investment required to meet services levels on a consistent basis.  Aside from being unnecessarily intrusive and seeming to move beyond the idea of ensuring a service is available, investment monitoring would increase cost and complexity both for any TSO provider and liable party. It also has the potential to encourage the inefficient deployment of capital.
6l	What TSO requirements should be added to prevent the deferral of investment for capacity renewal by the local TSO service provider?	This issue needs to be discussed as part of the proposed Local Service Working Party process. We recognise that the Government will need assurance that there is a provider of last resort able to provide the required level of service in all areas.  Without pre-empting any discussion, it is worth noting that basically all households can be served via satellite. In a situation where a lack of investment in an area by providers meant there was little interest in being a TSO provider satellite services may therefore be able to be used as a last resort. Given that these remain at the expensive end of the cost spectrum, and that service providers would likely remain liable parties, the incentives are likely to be for carriers to use their own networks to serve customers rather than subsidise a more expensive technology.
6m	Should a special fund be established for capability renewal of the networks supplying TSO local service?	No

6n	Who (eg a corporate trustee) should be responsible for such a fund? Should it operate on an 'escrow' basis?	N/A
<b>Eligibility for Service</b>		
7a	Should eligibility for TSO local service be confined to purely residential use?	This issue could be discussed as part of the proposed Local Service Working Party process
7b	What are the merits of establishing a 'hybrid telephone service option' for home businesses where a business is co-sited with a household in residential premises?	This issue could be discussed as part of the proposed Local Service Working Party process.
7c	Should the incremental revenue for such a new TSO local service be channelled into investment in rural network infrastructure?	See previous comments relating to linking TSO compensation with investment.
7d	What are the merits of applying such an option to all home businesses as opposed to confining the application to only those home business premises located in a rural area as defined by the statistic New Zealand rural definition?	This issue could be discussed as part of the proposed Local Service Working Party process.
<b>Price Cap</b>		
7e	Should the CPI price cap be retained for commercially non-viable areas?	<p>This issue needs to be discussed as part of the proposed Local Service Working Party process. One key objective of the current Local Service TSO is to ensure affordability. We support that objective and any proposed solution will have to address this key issue.</p> <p>While the TCF is unlikely to be legally able to reach any conclusion on the appropriate level of a price cap, it may be able to highlight the costs and benefits of different approaches to the price cap and report to the Minister with options.</p>

7f	Should the CPI price cap be retained for commercially viable area where there is not yet full and effective competition?	This issue needs to be discussed as part of the proposed Local Service Working Party process.  We would consider it unnecessary to retain TSO obligations in areas where there is more than one provider offering basic voice services at a price equal to or less than any price cap.
7g	Should the price cap for commercially viable areas be removed where there is full competition?	Please see the comments above.
7h	Should the retail charge for residential local telephone service continue to be capped through the Local service TSO deed?	Please see the comments above.
7i	Should retail prices be controlled outside the TSO framework through regulations made under the Telecommunications Act?	Certainly this is one possible reform option. However we are highly cautious about retail price control as a policy option in general, and we are not certain that the Telecommunications Act would easily allow this type of intervention. Typically price control is pursued under the Commerce Act, and only after extensive investigation and analysis by the Commission.
7j	Should another policy mechanism be used to cap the price of residential telephone service?	This issue could be addressed by the proposed Local Service Working Party.
7k	Do you agree with the factors listed for setting the retail price cap for local service? What is missing? What weight should be given to each?	These factors should be considered by the Local Service Working Party.
	<b>Free Local Calling</b>	
7l	Does the option of free local calling for residential customers present difficulties for the development and growth of the broadband market?	We do not see major impacts on the broadband market from free (or at least capped-price) local calling.  Free local calling may not be the best solution for all customers. It does, after all, mean that monthly access fees are higher in New Zealand than in other places, which does not help customers who make few local calls.

	<b>Price rebalancing, Deaveraging and Wholesale Services</b>	
7m	Should retail line rentals for local telephone service be aligned with the degree of geographic deaveraging applied for pricing regulated wholesale services?	This issue needs to be discussed as part of the proposed Local Service Working Party process.
7n	Should the prices for local telephone services be supplied in rural areas be rebalanced to align prices closer to cost) more aggressively than the rate of CPI change?	This issue needs to be discussed as part of the proposed Local Service Working Party process.
7o	How should any detrimental impact on the consumer affordability of local service due to price de-averaging be addressed?	This issue needs to be discussed as part of the proposed Local Service Working Party process.
	<b>Upfront Subscription Charges</b>	
7p	Should the up-front charges for establishing telephone access connections be covered by the TSO requirements?	This issue needs to be discussed as part of the proposed Local Service Working Party process.
	<b>TSO Provider gatekeeper role</b>	
8a	Should the gatekeeper role be performed by a government and non-government organisation and why?	This issue should be considered by the Emergency Services working party
8b	Should the gatekeeper role continue to be performed under the local service TSO or be a new TSO instrument?	This issue should be considered by the Emergency Services working party

<b>Emergency call information</b>		
8c	Should all providers of telephone service in New Zealand be required to establish and maintain capability to identify caller location for emergency calls sourced by their subscribers?	We believe this issue should be considered by the Emergency Services working party
8d	How should requirements for call information be phased in? Should they apply equally to both legacy telephone networks and next generation telephone networks?	We believe this issue should be considered by the Emergency Services working party
8e	Should the costs for establishing and maintaining call information capability for public telephone networks in New Zealand be borne by the carriers operating those networks?	We believe this issue should be considered by the Emergency Services working party
8f	How should minimum standards be set for the supply of call information? By invoking reserve regulation making powers and/or by an industry code of practice?	We believe this issue should be considered by the Emergency Services working party
<b>Availability of Emergency Call Service</b>		
8g	Should requirements for the quality and reliability of emergency call services be prescribed to apply uniformly across the telecommunications industry (TSO and non-TSO service)?	We believe this issue should be considered by the Emergency Services working party

8h	Should the requirements for conveyance of emergency calls be prescribed through regulations under the Telecommunications Act, through an enforceable industry code of practice, or a combination of both?	We believe this issue should be considered by the Emergency Services working party
8i	Should all telephone service providers in New Zealand (including those facilitating telephone calling through internet access) be required to offer their subscribers the ability to make emergency calls?	We believe this issue should be considered by the Emergency Services working party
<b>Lifeline Access</b>		
8j	Should access lines be kept in an active state after service is relinquished to enable lifeline calls to be made?	We believe this issue should be considered by the Emergency Services working party
8k	Should supply of such lifeline connection be compulsory for all operators of public fixed telephone networks, irrespective of whether telephone access is by an analogue line or a VOIP bitstream on a digital line?	We believe this issue should be considered by the Emergency Services working party
8l	Should this requirement be applicable to only cable (wire or fibre) fixed lines that reticulate dwellings and premises?	We believe this issue should be considered by the Emergency Services working party
<b>Availability and adoption of rural broadband</b>		

9a	Taking into account likely broadband requirements in 3-5 years time, what do you consider will be the key broadband applications for business and households	Please see our comments in the body of our submission. We do not see this question as relevant to the discussion of TSO instruments.
9b	To what extent do you consider that the market will meet the broadband needs of rural users (including availability and affordability) in the next five years?	Please see our comments in the body of our submission.
9c	Do you consider there is a case for subsidy mechanisms to fund upgrading of rural broadband infrastructure, and if so, what mechanisms should and should not be considered and why?	Please see our comments in the body of our submission.
	<b>TSO Role in improving Broadband connectivity</b>	
9d	What role do you think the TSO framework should have in accelerating the uptake of broadband access for New Zealand homes?	Please see our comments in the body of our submission.
9e	How are these rules above for considering a broadband USO relevant to New Zealand?	Please see our comments in the body of our submission.
9f	Are there other factors that need to be considered for a broadband TSO?	Please see our comments in the body of our submission.
9G	Should the TSO Provider for any broadband TSO be selected on a contestable basis?	Please see our comments in the body of our submission.

	<b>Design principles for TSO instruments</b>	
9h	Do you agree with these suggested guiding principles?	The proposed Local Service Working Party could take those design principles into consideration in formulating a solution for ensuring affordable access to basic services.
9i	Are there other factors which need to be considered in shaping TSO requirements?	It is important to think carefully about who should fund TSO services when shaping TSO requirements. This is an issue we touch on in the body of our submission.
	<b>Responsibility for TSO change Determination</b>	
10a	Should the Commerce Commission retain responsibility for calculating the TSO charges for TSO instruments containing charging rates of a specified amount?	We consider that if the majority of the current issues with the Local Service TSO can be resolved there would likely be a far smaller role for the organisation that calculates any charge.  The Commission has also built up a large body of expertise on these issues, and we can see little value in switching to an alternative provider at this point.
10b	What type of organisations should be considered to perform such a role going forward?	Please see our comment above.
10c	Should responsibility for making TSO determinations which calculate TSO charges of specified amount be separated from the Commerce Commission?	Please see our comment above.
10d	Should responsibility for allocating TSO charges over the industry be separated from the Commerce Commission?	Please see our comment above.
10e	Does a trust fund arrangement have merit? Who would be appropriate to operate such a trust fund?	No.
	<b>Payment of TSO levies by</b>	

	<b>liable persons</b>	
10f	Should an interim TSO levy be applied for compensating TSO Providers in advance of reconciliation and final payments?	No. Not only might this have the effect of reducing the incentive to finalise the levies, but TSO providers receive interest to compensate them for the loss of use of the money used in providing TSO services.
10g	Should such an interim payment arrangement for TSO levies be on a similar basis to the industry levy for recovering the Commerce Commission regulatory cost?	N/A
	<b>Extension, Expiry and review of TSO instruments</b>	
10h	Should a standard practice apply for extending the duration of TSO instruments?	Yes. A process should be undertaken to ensure that the market situation that led to the TSO instrument being created has not changed to the extent that a service can be provided on a commercial basis at an affordable price. Given the speed of market developments in the telecommunications industry this period should be relatively short. We suggest three to five years as an appropriate period.
10i	Should TSO instruments automatically expire after a specified period?	Yes. This could help strengthen incentives to ensure the conditions that required the TSO instrument to be established still prevail.
10j	How frequently should TSO instruments be reviewed?	Three to five years.
	<b>Accountability for Local Service TSO compliance</b>	
10k	Should a single organisational unit of Telecom have accountability for all TSO functions, what Telecom business unit should this be?	<p>The way in which Telecom meets the requirements of the existing Local Service TSO is a matter for Telecom and the Crown, as the parties to the TSO Deed, to resolve in finalising the Operational Separation Undertaking.</p> <p>One of the strengths of the proposed Local Service Working Group process is that the Operational Separation undertaking process will be complete and there will be greater certainty on Telecom's structure. Without a clear understanding of that final form it is very difficult to make judgments about where any TSO requirements might sit.</p> <p>The nature of any proposed solution is also likely to impact on where obligations might sit within Telecom.</p>

10l	How should responsibility for the various TSO functions identified be allocated across the Telecom Group?	Please see above comments.
10m	How should costs and revenues for TSO service requirements, which Telecom fulfils as TSO provider, be allocated across the Telecom group?	Please see above comments.
10n	How should the cost of TSO levies paid by the Telecom Group be allocated across Telecom business units?	Please see above comments.
	<b>Standard TSO Instruments</b>	
10o	Should provision be made in the TSO regulatory framework for establishing a 'Standard TSO instrument' to save multiple determinations against the same general TSO terms and conditions?	If there was a contestable approach for the Local Service TSO a standard instrument would seem sensible.