

VODAFONE NEW ZEALAND LIMITED
SUBMISSION TO THE
MINISTRY OF ECONOMIC DEVELOPMENT



vodafone

**New Zealand Government Broadband
Investment Initiative**

27 April 2009

Executive Summary

Vodafone fully supports the government's vision, to roll out ultra-fast broadband to public institutions, businesses and 75% of New Zealand homes within 10 years. Vodafone also acknowledges that fibre is a future-proof technology and complements other mobile and fixed telecommunications for the delivery of broadband.

Vodafone is an existing major investor in New Zealand and is a willing investor in this initiative provided it can develop an attractive business case.

We have had only a limited time to evaluate the concept in detail. Accordingly our response is still at a very high level and a lot more work will be needed to be conducted by us on our business case before we would be in a position to confirm any investment.

There are clearly some very positive outcomes being proposed:

- The government is committed to leading a coordinated approach which significantly improves the likelihood of success;
- The CFIC construct looks to be an appropriate governance model for managing government participation;
- The government is realistic about its short term returns and acknowledges that without the government subsidy, this initiative is unlikely to succeed; and
- The government has acknowledged that the RMA and local bodies involvement in infrastructure deployment will need to be streamlined to accommodate this initiative.

That said, we would note that there are a number of issues which will need to be addressed:

- The actual quantum of investment required is not yet clear. Based on the estimates of independent expert Dr Murray Milner¹ the real cost of the investment may be as high as \$5 to \$6 billion. In Australia, the government has announced a total requirement of A\$43 billion to reach 90% of homes which when mapped to the New Zealand context indicates a figure closer to \$9 billion. There is clearly more work to be done on the business case.
- More generally, the recent developments in the Australian process have highlighted the challenges that such initiatives create and should be reviewed closely – particularly with reference to the role of the fixed incumbent.
- While we understand the intent, as an investor in infrastructure with both retail and wholesale operations we have concerns about the restrictions being proposed around eligibility and equity participation as being too limiting to enable effective investment. As a capital investor we typically require some level of strategic control over that investment in order to have confidence in the execution of the business plan.

¹ Fibre-to the-Premises Cost Study for Treasury, 2 February 2009

- The fragmented LFC regional concept poses significant issues for any investor. Loss of scale may negatively impact the business case and we have concerns around technical coordination, national standards, and interface management. This may limit the creation of an effective and consistent range of products and services capable of being offered efficiently on a national basis.
- This initiative requires clarity around the participation of existing infrastructure owners, with particular reference to Telecom. Without its existing infrastructure being included in the mix in some form, the initiative will face significant risk. A solution that builds an orderly transition from the current copper-based services to fibre alternatives will be more likely to succeed.
- We are not convinced that the proposed regulatory settings for the LFCs are appropriate. Nevertheless, regulatory certainty is something that the government can deliver which can support the overall business case.

We believe there should be greater definition around the remaining 25% of households in rural New Zealand. Our rural customers are quite clear that increasing their broadband speeds is a priority for them and we are confident that mobile broadband and satellite technologies can deliver enhanced services to this segment which is the engine room of our economy.

With this in mind, as a minimum enhancement, we believe that the scope of the initiative could be extended to include fibre backhaul to deliver wireless based solutions to rural New Zealand

The initiative proposal does not deal with the subject of international bandwidth. The indicators are that international data usage is more than doubling each year. In order to meet the government's objectives the cost of access to the global internet needs to be dramatically reduced. Whilst this may be a project in its own right, it needs to be coordinated with the wider broadband initiative.

Ultimately the investment that Vodafone will be prepared to make will be based on the business case economics and the ability for us to develop and support a range of customer propositions on a national basis. The economics of an investment of this type will be heavily influenced by the costs of roll out, the service uptake achieved in the areas of coverage (and the rate of that uptake), and the prices that customers will be prepared to pay over time.

There is considerable International evidence to show that customers will not pay any more for ultra fast broadband than they will for an average broadband performance such as that on offer to most urban New Zealander homes today.

Dr Murray Milner in his cost study models a number of scenarios of customer penetration. At 50% penetration (high by global standards) the investment required to achieve the Government objectives is \$3.5 billion to \$5.5 billion. If there is no incremental increase in customer revenues to cover the roll out costs then the business case is likely to be challenging from an investor's point of view.

Vodafone believes that a partnership between the Government and the key industry players could be a lower risk plan for success;

- The current process is RFP based, confrontational and does not allow adequate time for the stakeholders to develop their plans;
- Current levels of engagement with the industry are minimal and do not reflect a partnership;
- Industry expertise (including from potential vendors) needs to be pooled and exploited to optimise the outcomes; and
- A consolidated approach will maximise economies of scale;

We look forward to engaging with the government and the industry in moving this initiative forward.

The rest of this submission addresses each of the points in the government's proposal. We have repeated the text from the proposal in a box and followed each one with Vodafone's views.

PROPOSAL

1 This paper sets out the objectives, and proposes a structure, process and timetable for the implementation of the government's \$1.5 billion broadband investment initiative.

Noted

2 The proposal set out in this Cabinet paper takes into account discussions by the Minister for Communications and Information Technology with a range of interested parties and consideration of options and proposals for achieving the government's objective. The approach set out in this paper will provide an opportunity for all parties to participate in the initiative in a competitive context.

Noted

EXECUTIVE SUMMARY

Objective

3 The government's goal for broadband investment is to accelerate the roll-out of ultra-fast broadband to 75% of New Zealanders. This is referred to as the government's objective in this paper.

Noted

4 While there is a range of possible technologies for the delivery of ultra-fast broadband, the primary focus of the government's objective is on fibre-optic technology. It is widely accepted that fibre is capable of providing the highest data throughput speeds, and fibre represents the most 'future-proof' technology available at this time.

While Vodafone recognises the potential that fibre represents in a fixed network context, and agrees that it is a "future proof" technology, Vodafone urges the government to recognise that there are other delivery media that should be considered as part of a cost effective means of delivering the government's objectives, in particular wireless broadband. In this regard attention is drawn to wireless broadband uptake in certain markets (e.g. Australia) now being considerably faster than fixed broadband uptake.

5 The initial goal is to make fibre available to "priority users" such as businesses, schools and health services, plus green field developments and certain tranches of residential areas, within the first six years of operation, and the secondary goal is to make fibre available to 75% of the population within ten years.

In order to make the business case for FTTH deployment it is necessary to ensure a rapid and high level of uptake which requires the residential market to also be a priority. However the Government has a significant role in ensuring that government bodies and other public institutions commit to early sign-on.

Proposal

Crown-owned investment company

6 The government will establish a Crown-owned investment company (“Crown Fibre Investment Co” or CFIC). The CFIC will function as the vehicle for investing the government’s \$1.5 billion.

- The CFIC will invest, alongside private sector co-investors, in regional fibre companies (“Local Fibre Cos” or LFCs) that will deploy and provide access to fibre-optic network infrastructure in the 25 cities and towns covered by the initiative.

Vodafone supports the concept of the CFIC as the vehicle for managing government’s broadband investment.

7 The CFIC will operate an open, transparent and contestable process to select partner shareholders for LFCs. It will seek proposals based on clear criteria.

- Selection criteria will be focused on several aspects – the amount of additional fibre coverage being proposed, the proposed capital structure (including the parties’ relative capital contribution requirements), the commercial viability of the proposal, consistency with government objectives, and the track-record of the partner.

Agreed. The process needs to be transparent and open and the fewer LFC’s the better.

8 Aggregated proposals covering any number or combination of regions will be allowed. That is, while proposals will be sought for 25 regions, LFCs may be formed on a smaller number of regions.

Understood and answered in more detail in clauses 57-63.

9 The intention is to operate a contestable process, to encourage partners to provide attractive and detailed proposals so that the CFIC is able to make comparisons between proposals. However, this should not be a ‘once-only, all-or-nothing’ process. While the CFIC must operate an initial request-for-proposals process, it may negotiate with partners, consider ‘staged’ proposals and request further proposals periodically. The CFIC will not be expected to disburse the full \$1.5 billion initially, but will have the ability to reserve funding for future rounds of proposals.

Understood and supported in intent.

10 The CFIC will manage the Crown’s investment on an ongoing basis. Its task will be to achieve the government’s public policy objectives, but it will have flexibility to take commercial decisions on investments.

Understood.

Differential equity rights

11 For any given LFC, the selected partner (which could be made up of one or more parties) will co-invest in the LFC, along with the CFIC. Differential equity rights may apply that initially favour the partner.

- ❖ It is expected that the partner will offer both investment (by way of capital and/or assets) and the commercial and technical ability to deploy and operate a fibre network.
- ❖ The government's shareholding may be concessionary, and in particular may be subject to a lower rate of return than the partner for an initial period (for example, up to ten years). These provisions will be negotiable.

Given the potential difficulty of making a viable business case for FTTH to 75% of the population, the proposed approach to concessionary funding is potentially the only way the business case will succeed if deployment is to meet the government's timeframe.

12 There will be no government commitment or guarantees regarding the rate of return that partners will receive.

Noted. Vodafone considers it appropriate that no rate-of-return will be guaranteed by Government.

13 The proposed investment structure is summarised below:

Noted

14 The intention is that each LFC will operate purely as a "fibre infrastructure carrier", providing wholesale access to dark fibre, and optionally providing other wholesale services. It will not provide retail services.

In the context of the initiative as proposed Vodafone supports the principle that LFC's operate purely as wholesalers of dark fibre and not as retailers, provided that access to that dark fibre is offered to all retailers on equivalent terms and on terms which support the retailers' business case. Rolling out new fixed networks depends critically on achieving low-cost and timely access to rights-of-way and existing facilities. These issues are less likely to be significant for Telecom, and for other utilities which may be able to leverage existing infrastructure. It will be difficult for another party to contemplate becoming a local fibre company unless the terms and conditions of any third party access are known and guaranteed.

A secondary risk is that the bidding process could potentially be quite complex, and lead to fragmented outcomes. The Government raises the issue that some regions may not attract competitive bids, but we see a bigger issue being fragmentation in outcomes. If, as an extreme example, there are separate companies for each of the 25 regions, we can foresee problems arising from lack of scale (e.g. for things like purchasing of inputs and marketing) and high transaction costs, as one imagines it would be quite complex for any national retail operator to secure agreements with all of the local companies, who may charge at different levels and use different price structures.

15 For any given LFC, the LFC will be governed by a Board representing the CFIC and the partner's shareholdings. LFC's objective will be to deploy fibre in the relevant region, and to sell dark fibre services and other approved wholesale services that accelerate the delivery of competitive retail broadband services.

- ❖ LFC company constitutions will require them to operate in certain ways and to avoid certain activities (for example a restriction on providing retail services). A shareholders agreement between the CFIC and the partner will set out the specific objectives of an LFC.

This concept needs further discussion. Vodafone is a fully integrated infrastructure, wholesale and retail operator, and so to be limited in its level of control over a key component of that mix may affect the viability of the investment business case. However if these restrictions prevail, there could still be significant incentives for a local fibre company to favour a related operation. Mechanisms will be required to ensure equivalence between access seekers and open access to services.

16 All LFCs will be required to adhere to common technical and commercial standards in key areas such as open access, equivalence and interconnection (in particular, interconnection at neutral points of presence).

Vodafone considers that it is absolutely crucial that there are common commercial and technical standards if a regional approach is to be taken, as each regional network needs to interoperate nationally and seamlessly with all other regional networks if the government's objectives are to be realised. The initiative does not adequately address these issues.

The most appropriate outcome may be that there is a common technology vendor on a national basis.

Cost of the CFIC

17 The operational costs of the CFIC are estimated to be in the order of \$4 million per year (possibly higher in initial years, and lower in subsequent years), and this will be a charge against the \$1.5 billion.

Understood

Involvement of partners that also own retail operations

18 As noted above, LFCs will not provide retail services. However, the government will not exclude partners that own or operate telecommunications retail operations, but such partners may not have the majority of voting control on the board of LFC (unless they divest themselves of any retail business).

The process is aimed at producing competitive tension between bidders for the local areas, or aggregations of local areas. Vodafone would be very concerned if the implementation of this initiative resulted in the creation of a new access monopoly that was able to favour any particular party with related retail operations.

19 Telecom, and other telecommunications operators with retail operations, will therefore be able to participate in the contestable selection process, subject to the above requirement.

It is hard to see how the government's objectives with respect to this initiative can be achieved without the full and willing participation of the existing owners of major network infrastructure. From Vodafone's perspective we are a fully integrated telecommunications company and we would

seek proportional influence based on the level of our investment. We understand the intent of the Government, but believe this particular point needs further consideration.

Complementary measures

20 With the aim of reducing the cost of network deployment, it is proposed that officials (led by the Ministry of Economic Development) will be directed to report back on how best to facilitate access to and use of:

- a fibre cable deployment on telephone and electricity poles;
- b local authority-owned passive infrastructure such as ducts;
- c micro-trenching; and
- d fibre-optic cable “drops” from the street-side into customer premises.

We support the intent that the cost of deployment can be influenced by government direction to other government and local bodies. Any initiative that reduces the cost of deployment (where costs are estimated at 60% of total cost of deployment) should be implemented by government as a priority.

21 This may involve codes of practice or regulatory or legislative amendments.

Noted

22 Areas outside the 75% coverage area for the government objective will be addressed pursuant to a separate process which may be associated with the review of the Telecommunications Service Obligations. The government is actively developing funding solutions for improved broadband service delivery in those parts of New Zealand not directly addressed in this initiative.

The issue of support to the 25% of New Zealand not covered by this initiative is important to Vodafone. With a combination of mobile and satellite technologies we maintain that we can offer rural and small regional areas a very acceptable broadband and telecommunications service. The TSO in its current form restricts and limits our ability to identify and develop propositions for this group of customers. Reform of the TSO also needs to be a priority.

Risks

23 The main risks in this proposal are that:

- a there could be insufficient viable proposals, because the Crown offer is not sufficiently attractive;

Vodafone believes it will be difficult for any party to present a viable proposal unless a credible business case can be made for the proposed investment. Acknowledging its own objectives, the role of Government is then required to ensure that the most favourable investment climate and initiative structure exists.

- b the selection and negotiation process could be complex and difficult;

Agree that this is a valid risk.

c proposals could involve some overbuild (duplication) of existing fibre networks;

Where there is a network overbuild (actual or potential and not limited to existing fibre) the owner of the overbuilt asset has the incentive to sweat that asset and maximise usage. The impact of this will be to undermine any investment business case as the uptake assumptions will be reduced, and it will not deliver revenue sufficient to support the required investment.

d the business case for LFCs is expected to improve over the long term but there is a risk that some LFCs could fail to become profitable;

If assumed levels of uptake or revenue are not achieved, then it is quite likely that any given LFC could fail. It is more likely for LFC's with population and geographic cost constraints that make scale hard to achieve.

e there is the potential that Telecom would be required, pursuant to the Operational Separation Undertakings, to make investments that it would not otherwise make, given the government's investment in a new fibre network;

We cannot speak for Telecom but the initiative as currently crafted does not address this risk.

f there could be opposition to the proposal by existing telcos; and

We can't speak for other telcos but it is our view that most telcos would want to participate in and support such an initiative.

g the proposed funding could be insufficient to meet the coverage target, and that there is pressure for the government to increase its contribution.

This risk is very real and is supported by the findings in Dr Milner's paper. The recent Australian situation is an example where the Government has committed to substantially increasing the funding of their initiative.

24 The proposals in this paper seek to mitigate and manage these risks.

Noted

Timetable

25 The following summarised timetable indicates the key dates for progressing the initiative:

Noted but we think the timetable is ambitious and challenging.

BACKGROUND

26 This Cabinet paper covers the following topics:

a objective and principles;

- b how the government will achieve this objective;
- c Crown-owned holding company – “Crown Fibre Investment Co”;
- d eligibility of private sector partners (referred to as partners in this paper);
- e Local Fibre Co;
- f profit allocation;
- g selection process and criteria;
- h shareholders agreement;
- i pricing and regulatory matters;
- j demand-side initiatives;
- k timetable;
- l complementary measures; and
- m risks.

Noted

Objective and principles

27 The government wishes to create a step-change in broadband by delivering on an aspirational goal of achieving ultra-fast broadband for the majority of New Zealanders. This is a key part of the government’s wider strategy to increase New Zealand’s global competitiveness, particularly compared to other OECD countries. A comparison of the status quo versus a fibre-to-the-home scenario is set out in the Appendix.

Vodafone supports the government’s objective to create a step change in broadband as part of the overall strategy to increase New Zealand’s global competitiveness. However Vodafone has concerns over a number of deficiencies in the proposed approach.

Overall objective

28 The government’s goal for broadband investment is to accelerate the roll-out of ultra-fast broadband to 75% of New Zealanders, concentrating in the first six years on priority broadband users such as businesses, schools and health services, plus green field developments and certain tranches of residential areas. This is referred to as the government’s objective in this paper.

Noted but refer to earlier comments to paragraph 5 on driving take up as a priority for the mass market.

29 This will be supported by government investment of up to \$1.5 billion alongside additional private sector investment, and be directed to open-access infrastructure.

Noted

Key principles

30 The achievement of this objective will be consistent with the following principles:

- a making a significant contribution to economic growth;
- b neither discouraging, nor substituting for, private sector investment;
- c avoiding entrenching the position, or ‘lining the pockets’, of existing broadband network providers;
- d avoiding excessive infrastructure duplication;
- e focussing on building new infrastructure, and not unduly preserving the ‘legacy assets’ of the past; and
- f ensuring affordable broadband services.

There are contradictions between c, d and e. The proposal has acknowledged the contradictions but it’s not clear that the terms of the proposal have solved how to deal with them.

We also challenge point c which suggests an attitude which is not conducive to commencing a partnership. Private sector investors will expect an economic return for the risk they are prepared to take. This should not be seen as “lining the pocket” in any way.

How the government will achieve this objective

Public policy rationale

31 The rationale underlying the government’s proposed investment approach is that, where public funding is invested in telecommunications infrastructure, the government should direct that investment to areas where the market is not likely to deliver on commercial terms.

Agreed.

32 When the focus is on investment in a fibre-optic telecommunications network, the most significant capital investment is in the roll-out of the passive network infrastructure.

- ❖ This refers to the physical deployment of fibre-optic cable and passive network equipment in underground ducts (or other suitable underground infrastructure) or on overhead poles across the coverage area. In many cases existing ducts are not available, so new ducting needs to be deployed, involving significant civil works costs.

While Vodafone supports the focus of Government investment being in passive infrastructure, the Government also needs to focus on measures to reduce the cost of fibre deployment and in particular resolve RMA constraints and harmonise local body responses to the use of new technologies (e.g. shallow trenching).

Investment approach

33 Against this background, the Minister has concluded that the government investment of \$1.5 billion should be focussed on achieving widespread roll-out of the fibre-optic network infrastructure, sufficient to provide “dark fibre” and potentially other approved wholesale broadband services.

Noted.

34 “Dark fibre” refers to fibre optic cable which has been laid in the ground (or on poles) but which has not yet been made active. Fibre is made active by adding optical electronics at each end, to provide a working service. ISPs and other telecommunications providers can purchase access to dark fibre, add their own electronics, and then use it to provide a retail service. This is referred to as “lighting” the fibre. In very simple terms, this is the most “raw” access to the underlying infrastructure, and provides the best competition outcomes because the wholesale customer has full control and flexibility and has the ability to innovate in downstream services. However, there may be benefits from the provider itself lighting some fibres and providing a managed wholesale “bitstream” type of service, to enable improved economies for its wholesale clients.

While Vodafone supports the concept of the dark fibre being lit by telecommunications providers, the manner in which this lighting of the fibre is achieved will have a major impact on the ability of retailers to compete at the services layer. The choice of network architecture will be very important, and potentially require tradeoffs between network build costs and the ease with which retail customers can shift between service providers. This will be a subject requiring further analysis and industry coordination.

35 The government’s approach will encourage the development of a widespread wholesale market for the provision of “dark fibre” network access services. The government investment will be in fibre networks that will operate only at the wholesale level, selling “dark fibre”-based services enabling telecommunications providers to design and specify their own downstream services. This approach will ensure that all decisions regarding active network technology options are left to private sector investors.

See 34 above.

36 By keeping the fibre company out of retailing, it will have no incentives to act anti-competitively, and there will therefore be no need for initial price regulation of its services. In fact there will be considerable initial incentives for LFCs to keep the fibre rental prices low to facilitate use by downstream providers.

The assumption that vertical separation will be sufficient to prevent anti-competitive behaviour is open to challenge. The electricity industry has been vertically separated for some time but there have been numerous instances of Commerce Commission action around pricing by lines companies (the electricity equivalents of the LFCs). The assertion that there is an initial incentive to keep pricing low is also subject to challenge as the fibre companies will in some instances be natural monopolies which do not always behave in such a way. If the initiative is to be implemented in its

current form, in the absence of wholesale competition at the lit fibre layer, some form of regulation may be required for sustainable wholesale and retail margins to be achieved.

37 This approach ensures the least possible government involvement in the commercial operation of the fibre infrastructure, and at the same time maximises the involvement and skills of private sector partners, who are best placed to make commercial decisions.

While Vodafone supports the approach to regulation, we are somewhat sceptical of its effectiveness based on what has happened in the electricity industry.

38 This approach will also minimise market distortion from government involvement. The new network is intended to provide a service to the telecommunications industry, rather than compete directly with it. The new network will provide dark fibre services to any ISP or telecommunications service provider, and will be operating as an infrastructure 'utility' at the passive level of the market. The aim is to provide a new fibre platform upon which service providers can develop their own services and create unique, innovative offerings.

While Vodafone supports the stated intention of government in delivering the new network, we do not support the assertion that the new network will not compete directly with the telco industry. In the event that any of the major industry members are not part of any of the fibre companies, it is likely they will use their existing (sunk-cost) assets to vigorously compete against the fibre network. If this is the case the chances of being able to make a workable business case for the fibre investment are significantly diminished as the economics of the business case are highly sensitive to the uptake assumptions.

Summary of proposal

39 This proposal is based on a Crown-owned investment company ("Crown Fibre Investment Co" or CFIC) that will co-invest with private sector partners in new passive fibre-optic networks in the regions covered by the initiative.

We agree with the concept of the CFIC.

40 The CFIC will operate a competitive process to determine its various partner shareholders, by seeking proposals from the market. The focus of this process will be on identifying the proposals most likely to achieve the government's overall objective. Various regional companies will then be established to deploy and provide wholesale access to dark fibre.

Noted.

41 Selected partners will co-invest in a local fibre company ("Local Fibre Co" or LFC), along with the CFIC. Differential equity rights may apply at different stages of the roll-out that favour the partner, subject to negotiation.

As per paragraph 11.

42 There will be no government commitment or guarantees regarding the rate of return that partners will receive.

Noted. Vodafone considers it appropriate that no rate-of-return can be guaranteed.

43 The CFIC will manage the Crown's investment on an ongoing basis. It will have flexibility to take commercial decisions on appropriate regional investments, taking into account the government's public policy objectives.

- ❖ The CFIC will be required to achieve the initial goal of making fibre available to priority users such as businesses, schools and health services, plus green field developments and certain tranches of residential areas, within the first six years, and a secondary goal of making fibre available to 75% of the population within ten years.

Noted but we repeat our point made in paragraph 5 that we believe that any business case will be dependent on rapid deployment and high uptake and that will require the residential market to be an equal priority.

44 While the \$1.5 billion investment is primarily driven by public policy objectives, it will also have a commercial focus. Thus, a key feature of this approach is that the government's financial contribution will be by way of an investment, as opposed to being by way of a grant or suspensory loan. The primary objective is to accelerate the roll-out of additional fibre, but the government also intends to take a share of the benefits in the event that any of the fibre operations become highly profitable in the future.

Vodafone is interested to understand how the Government proposes to balance its public policy objectives with the commercialised focus of delivery of an acceptable ROI.

45 The proposed structure is summarised below:

Diagram 1: Proposed investment structure

Noted

46 The intention is that each LFC will operate as an "infrastructure carrier", providing wholesale access to dark fibre, and optionally providing wholesale services. LFCs will not provide retail services. This will ensure service providers can access dark fibre on an open and transparent basis.

It has been well documented internationally (<http://www.itu.int/ITU-T/ngn>) that the keys to stimulate service creation are to provide affordable access to transport network and standard network interfaces so that the retail service providers (locally and globally) can provide seamless services to all users. While network providers (layer 1 / layer 2/ layer 3 wholesalers) can be innovative with their commercial offerings in order to achieve differentiation (and this leads to competition), the technical standards must be aligned with global standards and be well defined and common among all providers. The technical interface and provisioning tools need to be identical between different providers in different regions so that it will result in lower implementation costs nationally for the wholesalers. This will also allow the retail service providers to choose and switch their providers where suitable and enable service rollout quickly and seamlessly.

47 All LFCs will be required to adhere to common technical and commercial standards in key areas such as open access, equivalence and interconnection (in particular, interconnection at neutral points of presence).

See response to paragraph 16 above. A common technology vendor across all LFC's may be required to mitigate the issues of common standards and integration.

48 The details of each main aspect of this proposal are discussed in turn below.

Crown-owned holding company – “Crown Fibre Investment Co”

49 First, the government will establish a Crown-owned holding company, the CFIC.

Noted

50 The objectives of the CFIC will be as follows:

a to achieve the government's objective and to maximise the availability of additional fibre to potential end-users; and

Noted

b subject to meeting the primary objective in (a) above, to operate on a commercial basis.

Noted

51 The tasks of the CFIC will be to:

a select joint venture partners for the LFCs by way of a competitive process, based on criteria set down by the government;

Noted

b appoint board members to LFCs (in proportion to the CFIC's shareholding) to best achieve the government's objective;

Noted

c disburse government funding by way of investment in LFCs; and

Noted

d monitor performance of, and manage the government's investment in, LFCs.

Noted.

52 In terms of form and governance, the CFIC will be a wholly-owned Crown company. It will not be a state-owned enterprise, because it has partly non-commercial objectives. The Board of the CFIC will be comprised of four or five directors with relevant commercial and technical expertise. The Board will be appointed by, and accountable to, the Minister of Finance and the Minister for Communications and Information Technology.

Noted

53 Officials have advised that the most appropriate legal form for the CFIC would be as a Public Finance Act 1989 Schedule 4 company – as this form enables a degree of Ministerial control, and allows the appropriate parts of the Crown Entities Act 2004 to be applied to the company.

Noted

54 The CFIC will also require a secretariat, estimated at around five to ten full time staff. In addition, it will need to contract for specialist advice such as legal, investment banking and technical services, especially during initial contracting phases. The operational costs of the CFIC are estimated to be in the order of \$4 million per year (possibly higher in initial years, and lower in subsequent years), which should be a charge against the \$1.5 billion.

Noted

Eligibility of private sector partners

55 Subject to the next paragraph, there will be no restrictions on the eligibility of parties to participate as partners in LFCs.

Noted

56 There will be one exception, applying where any party making a proposal owns or operates a telecommunications retail operation. The concern is that, in this case, there is a risk that the partner will have an incentive to manage an LFC in a way which favours its own retail operation. In this event, the party either:

a must fully divest itself of the retail operation; or

b may not appoint the majority of directors to the Board of the relevant LFC and the chair of the LFC Board must be an independent chair (based on the Companies Act 1993 criteria) agreed to by all shareholders.

This is a significant issue for Vodafone. A potential outcome of this provision would be that the large 'vertically integrated' Telco's may be excluded from the being able to participate unless they structurally separate. Should some or all choose not to, this then results in the process being closed to the major sources of skill and expertise in this area and to significant potential sources of investment capital. It also fails to provide an appropriate incentive for telco's to deal constructively with their existing networks. Without a constructive engagement on this issue, it will be very difficult for any workable business case to be developed.

Furthermore, investing capital on this scale without having control over the operation of the LFC, whilst at the same time working with an open access regime, means that there is no advantage for those companies who provide capital. Vodafone suggests that this is an area that will require further debate and review in coming weeks.

Local Fibre Cos

57 Following selection of proposals by the CFIC, it and each partner (or partners) will establish a commercial vehicle, LFC. This could be a new, limited liability company, or an existing company. This will be the operational company that will deploy and sell access to fibre in a particular region or regions.

Noted

58 The overriding objectives of LFCs will be as follows:

a to maximise the availability of additional fibre infrastructure to potential end-users and retail service providers within the relevant region;

Noted

b to comply with the matters agreed between the CFIC and the partner in the shareholders agreement; and

Noted

c subject to (a) and (b) above, to operate on a commercial basis.

Noted. However, while Vodafone understands the overriding objectives of the LFC's, the objectives are unlikely to be achieved if the issues of treatment of the existing networks are not addressed.

59 It is expected that the specific commercial objectives for each LFC will be contained in a shareholders agreement entered into at the time of establishing the LFC. The agreement will cover matters such as:

a coverage targets;

Noted

b capital requirements;

Noted

c performance milestones; and

Noted

d profit policy.

Noted

60 Voting rights, the profit policy and shareholding sale and assignment restrictions will also be included in the shareholders agreement – these matters are discussed further below. The contribution of the partners may be a combination of assets, capital, debt or technical expertise.

Noted. Vodafone has articulated its views in paragraphs 18 and 19 which we see as related to this point.

61 The constitution of LFC, which binds the activities of the company, will also contain a number of the broad limitations on what LFC must, may and must not do, reflecting the government’s public policy “bottom lines”:

a LFC must:

- i deploy additional fibre in the relevant region;
- ii provide open access to the network on equivalent terms; and
- ii provide wholesale access to dark fibre on the network.

b Subject to the obligations in sub-paragraph (a), LFC may:

- i provide a wholesale bitstream service; and
- ii enable the provision of “interim” solutions by wholesale customers, such as wireless last mile or ADSL2+ or VDSL2 solutions, provided that this is consistent with the LFCs achieving the government’s objective of fibre-to-the-home within ten years; and

The fibre should also be allowed to be used as backhaul to other services on a permanent basis.

iii subject to the CFIC’s approval, provide any other wholesale broadband service.

c LFC must not provide retail services.

Noted

62 In terms of form and governance, LFCs will have two classes of shares:

- a “A” shares – to be held by the CFIC; and
- b “B” shares – to be held by the partner.

Noted

63 Subject to the exception that applies where the partner owns or operates a retail operation, as described above, voting rights to appoint directors will be in proportion to the parties’ relative shareholdings. The CFIC will likely appoint one or two directors on all LFC boards, along with other directors selected from a small pool depending on the specific requirements of particular LFCs. There will not be a need for a large number of directors.

Noted

Profit allocation

64 A key aspect of the arrangement will be the profit allocation policy of LFCs.

65 Profit allocation in LFCs may be based on a differential equity structure, which may entail initial preference being given to the private sector co-investor. This is intended to be the incentive for attracting investment from the private sector.

Noted but dealing with profits is not likely to be an issue which will trouble the shareholders for several years.

66 "A" shares, to be held by the CFIC, may entail:

a concessionary equity rights – in particular, the government's shareholding may be subject to a lower rate of return than that of the partner; and

Noted

b after 10 years, "A" shares will revert to normal shares.

Noted but this period may not be long enough. All the risk is being taken in the early years when there will be no "returns" to shareholders in the form of dividends. To convert the government shareholding to ordinary shares on a par with the commercial partner just when the LFC is turning profitable will make the government investment less attractive to the commercial partner. It is suggested that the conversion could be triggered off some event such as a defined period of years after the LFC has commenced paying a dividend.

67 These provisions will be negotiable following receipt of proposals.

Noted

68 "B" shares, to be held by the partners, will entail normal share rights under the Companies Act 1993. Note that there will be no Crown guarantees regarding returns to partners.

Noted

69 Decisions will be required on the CFIC's policies with regard to:

a re-investment of any dividends;

Noted

b 'staged' proposals;

Noted

b ability to provide further capital contributions; and

Noted

d whether there are any "stop loss" provisions relating to the extent of losses.

Noted

Rationale

The aim of this approach is to:

- make the offer attractive to potential partners, by providing capital on concessionary terms (subject to negotiation), in order to achieve the government’s public policy objectives;

Noted

- provide incentives for the LFC to operate commercially; and

Noted

- ensure that the Crown shares in commercially successful operations in the future.

Noted but see comments above in paragraph 66.

Selection process and criteria

70 The CFIC will solicit partner proposals by way of an open, transparent contestable process, with decisions made according to clear criteria.

Noted and supported.

71 The process will be aimed at both:

a selecting a partner proposing the maximum amount of additional fibre infrastructure in return for concessionary government investment; and

Noted

b leveraging the maximum amount of private co-investment possible in the circumstances.

Noted

Process

72 It is proposed that the CFIC issues a request for proposals (RFPs), with a three month period for preparation and submission of proposals. This would be followed by a short period of negotiation where required. An alternative would be to operate a two-stage process involving expressions of interest and an RFP.

Noted. Vodafone considers that there is merit in a pre-qualification process prior to issuing an RFP. This could incorporate some form of conference at which the views of all the stakeholders could be aired in a less formal context. Vodafone urges government to have established the appropriate technical and commercial standards, in consultation with the industry, ahead of issuing RFPs.

73 The intention is to operate contestable processes for partner selection, to encourage partners to provide attractive and detailed proposals so that the CFIC is able to make comparisons between proposals.

Noted

74 However, this should not be a ‘once-only, all-or-nothing’ process, because:

- a there will be some regions where there are no attractive proposals, at least initially;
- b commercial and technological developments may lead to higher quality proposals at later dates; and
- c it is likely that some proposals will be ‘staged’ (with network roll-out being structured in stages, where subsequent stages are dependent on the commercial success of earlier stages).

Noted and supported.

75 Accordingly it is proposed that the CFIC:

- a must operate a competitive RFP process initially;

Agreed

b may:

- i negotiate with particular partners;
- ii accept ‘staged’ proposals, provided that the overall proposal is consistent with achieving the government’s objectives. Where the CFIC accepts staged proposals, it must ensure that it has flexibility to change the partnership arrangements at the end of major stages; and
- iii operate further RFP processes at appropriate intervals (for example, one to two years).

Agreed

c will not be required to enter into contracts in regions where no attractive proposals are put forward, and may retain funding for later proposals, and/or later stages of particular proposals.

Agreed

Regions

76 The initial RFP will be in relation to each of the regions making up 75% of the population. The regions have been determined based on the population of the largest 25 cities and towns in New Zealand. These are the smallest areas for which proposals will be considered. The regions are:

Noted

77 aggregated proposals covering any number or combination of regions will be allowed. That is, while the RFP will be let for 25 regions, LFCs may be formed on a smaller number of regions.

Agreed. In the context of this initiative, Vodafone supports the principle of fewer LFC’s in order to maximise economies of scale.

Criteria

78 The criteria the CFIC must apply when selecting proposals will be as follows:

Selection criteria

The proposal that is likely to best achieve the government's objective, taking into account:

a the "additionality" of the proposal, defined as:

- i. the number of potential end-users able to benefit from new fibre who cannot readily access existing fibre; plus
- ii. the number of potential end-users able to benefit from new fibre who, while able to access existing fibre, cannot do so on competitive terms;

b) proposed capital structure:

- i amount of new capital invested by the partner;
- ii amount of capital sought from the CFIC; and
- iii proposed shareholding

c) commercial viability of the proposal and assessment of the business case;

d) ability of proposed network topology to support unbundled fibre access²⁰;

e) track-record of the partner; and

f) the CFIC's target of achieving a roughly proportionate spread of the available government funds across regions, and its ability to be flexible regarding the time span across which it spends the funding.

Vodafone is concerned that the selection criteria do not expressly include minimising the amount of overbuild of existing network assets. As currently expressed, the criteria (as expanded by footnote 19) seem to expressly contemplate using overbuild as a means of bringing existing network owners to heel. Vodafone is further concerned that in the event of overbuild, incumbent networks are incentivised to compete vigorously with the new fibre network to the detriment of the uptake assumptions in the investment business cases.

79 The government expects initial proposals to provide coverage to a substantial proportion of designated health and education end-users within the region, plus concentrated business areas (taking into account the criteria above regarding overbuild).

We understand the intent. However, as has been seen in existing fibre roll outs (e.g. on the North Shore), providing the opportunity for public institutions to connect and the connection actually taking place are two quite different things. To the extent that these connections can be "guaranteed" the initial risk in the project will reduce.

80 This criteria will be made publicly available as part of the RFP documentation.

Noted

Shareholders agreement

81 The shareholders agreement (or joint venture agreement, depending on legal advice) will be a contract between the CFIC and the selected partner for each LFC that is to be established. As such, the CFIC will be entering into a number of separate shareholder agreements (one for each LFC).

Noted

82 It is an agreement documenting the partners' relationship as shareholders of LFC, and governs both the overall parameters of the arrangement and the specific detail of the agreed commercial venture via LFC.

Noted

83 There will be a model shareholders agreement prepared and made public (via the RFP documentation) in advance of the partner selection process. Certain key matters will be "set in stone" (and common to all shareholder agreements entered into by the CFIC), but some specific content in each shareholder agreement will reflect the outcome of the selection process and the specific proposal agreed with each partner.

Noted

84 An important issue for government will be to ensure the enforceability of the commitments entered into by the partner with the CFIC, for example ensuring the agreed coverage target is met. Mechanisms to ensure this will be as follows:

Noted

- a CFIC capital contributions will be tied to delivery of certain milestones by the partner and/or the LFC, and to continued capital contributions by the partner; and
- b normal contractual remedies will apply.

Noted

85 The shareholders agreement will also provide for the CFIC to introduce new partners if and when the original partner(s) is unable or unwilling to meet the agreed objectives or commit to further roll-out.

Noted

86 Standard joint venture provisions will apply, for example:

- a the CFIC's consent will be required for any sale or assignment of shares by the partner, and vice versa; and
- b the CFIC will have the first right of refusal on any sale of shares by the partner, and vice versa.

Noted

87 "A" shares will convert to normal shares after a period of 10 years (this period will be negotiable).

Noted but see earlier comments on timing in paragraph 66.

Pricing and regulatory matters

88 There will be no restrictions or requirements on pricing of any services provided by LFCs. Pricing will be determined by commercial decisions of the LFCs' Boards.

Noted however reliance on commercial pricing decisions has not been a huge success in the electricity industry and this assumption needs further scrutiny.

89 The LFCs, like any other company, will be subject to the existing regulatory regime. This comprises the Telecommunications Act 2001 and the Commerce Act 1986 (Part 4 in particular).

Noted

Rationale

The rationale of this approach is that:

- LFCs will have incentives to price commercially (to ensure uptake of services and cashflow);
- LFCs' requirement to operate on an open access basis, and not to provide retail services, minimises incentives to operate anti-competitively;
- Schedule 3 of the Telecommunications Act 2001 provides for the Commerce Commission to investigate whether certain services should be subject to regulation under that Act. Part 4 of the Commerce Act 1986 provides for regulation of excessive prices in situations where there is no competition and the benefits of regulation substantially exceed the costs. This legislation could be called on in the event of any anti-competitive or monopolistic conduct. In both cases, the government may not act without a Commerce Commission recommendation to regulate, and government agreement is required to introduce any new regulation; and
- there will be no "regulatory holiday" for the LFCs – that would require legislation and would be inconsistent with the government's overall approach to competition policy and law.

Reliance solely on the competition provisions of the Commerce Act and/or Telecommunications Act may not be sufficient to deliver effective control of anti-competitive behaviour if an access monopoly is created. In any event, investors will need regulatory certainty before committing to an investment.

Demand-side initiatives

90 In order to stimulate take-up of services offered over the new fibre networks, the government will continue to facilitate the readiness of all public sector agencies, and in particular the health and education sectors, to take full advantage of fibre network services.

Noted

91 The government recognises a need for funding for initial connection and on-going costs, and national standards to make ultra-fast broadband useful to health and education users. This will in turn support the ongoing demand of these users for services delivered over ultra-fast broadband.

Noted

92 The government has made a commitment that \$150 million of the total \$1.5 billion broadband investment will be spent on making schools broadband ready. The initial \$34 million tranche of this funding will be spent on upgrading the internal networks of some schools.

Noted

93 Prior to the 2009 Budget Round, the Ministers for Communications and Information Technology, Education and Finance will resolve the details of how the remaining \$116 million of this \$150 million will be spent.

Noted

94 A substantial further investment and re-prioritisation of current spend will be required by government to fully prepare the health and education sectors to use ultra-fast broadband effectively.

Noted

95 The Ministers for Communications and Information Technology, Health and Education will continue work on assessing sector needs for broadband readiness, and plan to report back to Cabinet in June this year.

Noted.

Timetable

96 Noted but Vodafone considers the timetable to be very ambitious.

97 Existing infrastructure (above and below ground) can be a valuable part of future fibre deployment, and its availability can reduce the cost of network deployment. Deployment and use of such infrastructure is governed by several pieces of legislation (for example the Resource Management Act 1991, the Telecommunications Act 2001, the Electricity Act 1992 and the Local Government Act 2002) and regulations. It is proposed that the Ministry of Economic Development, in consultation with the Ministry for the Environment, the Department of Internal Affairs and The Treasury should be directed to report back on how best to facilitate access to, and use of:

a fibre optic cable deployment on telephone and electricity poles;

- b local authority-owned passive infrastructure such as ducts;
- c micro-trenching; and
- d fibre optic cable “drops” from the street-side into customer premises.

Vodafone agrees that existing infrastructure (above and below ground) can be a valuable part of future broadband (fixed and wireless) deployment, and its availability can reduce the cost of network deployment. In this regard, we have been involved in discussions in relation to seeking measures which we believe will enable existing infrastructure (such as lampposts for fixing cellular antenna) being more readily available for use. Vodafone also intends to make submissions in relation to the Utilities Access Bill, and would welcome a review of relevant legislation with a view to promoting infrastructure development, in a technology neutral way.

A further measure which Vodafone has identified, which we believe will assist with the use of existing infrastructure, is the use of Crown property. If land and buildings owned by the Government, Crown, State Owned Enterprises and local territorial authorities was more readily accessible to operators, we believe that fibre (and other technologies) could be more easily deployed. This would in turn result in cost savings. One way of achieving this would be via a Ministerial Statement of Policy.

National Environmental Standards are a useful instrument in providing national consistency and certainty for obtaining resource consents for deploying infrastructure. However we believe that legislative reform is more appropriate for non-resource consent issues, such as obtaining rights to use other parties’ existing poles.

98 This may involve codes of practice or regulatory or legislative amendments.

Noted

Rural broadband

99 In pre-election statements, the government indicated that a rural broadband initiative equating to \$48 million would be adopted, in addition to the \$1.5 billion initiative.

Vodafone believes rural New Zealand should be a priority and that the LFCs should be tasked with ensuring fibre is available to all rural network nodes (cell sites, exchanges) so that high speed wireless and other broadband services can be delivered to these communities.

100 Areas outside the 75% coverage area for the government objective will be addressed pursuant to a separate process which may be associated with the review of the Telecommunications Service Obligations. The government is actively developing funding solutions for improved broadband service delivery in those parts of New Zealand not directly addressed in this initiative.

Vodafone has previously presented its proposals for amendment of the TSO and is happy to engage further with the government to explore means of delivering broadband to all New Zealanders.

101 It is also expected that the new network will gradually expand beyond 75% of the population, becoming available to an increasing percentage of New Zealanders over time.

Noted.

Risks

The following section notes (at a high level) some of the risks of this proposal.

Few viable proposals

102 The main risk is that there could be insufficient viable proposals, because the Crown's offer is not sufficiently attractive – due to not offering a guaranteed return to partners²³, difficulties in obtaining capital in the current environment, or because the business case is too weak (for example if the price that would have to be charged to consumers to achieve a satisfactory return is significantly greater than the resulting value derived by consumers, take-up will likely be deterred).

Given that the currently stated criteria effectively exclude participation by existing telcos with a retail business, the risk of there being insufficient viable proposals is considered high. The risk identified in footnote ²³ (i) of Telecom potentially lowering its prices on a street by street basis where new fibre is deployed is potentially fatal to any business case that properly accounts for uptake risk. This leads to the conclusion that somehow Telecom needs to be part of any solution.

103 This risk has an ongoing component: it is likely that the various LFCs will have differing agreed coverage targets and timeframes for meeting these, meaning that "phase 2" proposals may need to be sought at various times in the future.

Noted.

104 This is an inherent risk in the approach being taken, though the government's proposal has been designed to minimise this risk by providing an attractive investment structure for private sector investors (while ensuring a long-term return for the government in certain circumstances).

Vodafone agrees with this risk.

Complex selection process

105 The selection of partners and preferred projects could be complex and difficult. It will be difficult to compare unlike proposals, such as regional and multi-regional proposals, proposals with and without 'staging' and proposals with differing capital structures and requirements.

Noted.

106 In addition, there is an increased risk of 'rent seeking' (bids above cost) occurring within a regional tender process of this type – particularly in smaller regions, where competition may be more limited.

Noted and agreed that this risk is real.

Significant overbuild occurs

107 There is a risk that proposals could involve some overbuild (duplication) of existing fibre networks. It is expected that, in many cases, overbuild can be avoided by LFCs by seeking access to

existing fibre where there would otherwise be duplication. However, in some cases this access may not be readily available on commercial terms, and so some overbuild may be necessary. While this would provide additional facilities-based competition, in respect of the duplicated network there would be low levels of “additionality”, and the government’s investment in that instance would be going where the market is already likely to deliver.

This is a key risk. Vodafone considers that the proposal fails to adequately recognise the risk to all potential business cases from competition from overbuilt networks. It is hard to see how the current initiative provides any incentive for existing network owners (who do not get selected or chose not to submit a bid) to behave in other than an economically rational manner and seek to maximise returns from sunk cost investments where they are in competition with new overbuilds.

LFCs fail to become profitable

108 The business case for LFCs is expected to improve over the long term but there is a risk that some LFCs could fail to become profitable.

Vodafone agrees that this is a real risk for some LFC’s. This is not an investment for the “faint-hearted.” The risks to the business case are very high as noted.

109 In addition, Telecom may believe that the initiative will compete directly with the Chorus infrastructure thereby reducing revenues and shareholder value. A competitive response by Telecom could undermine investment confidence by potential LFC partners.

Agree and this relates to points raised in 102 and 107.

110 again, this is an inherent risk in this initiative. However the government’s approach is designed to help LFCs move towards profitability in time.

Agree. Possibly this could be a fatal risk to an investor.

Telecom is required to make investments that it would not otherwise make, given the changed environment

111 There is the potential that Telecom could be required, pursuant to the Operational Separation Undertakings, to make investments that it would not otherwise make given the roll-out of new fibre. As noted above, Telecom is required to extend fibre into its network and to shorten the copper loop lengths to certain agreed targets by December 2011. Telecom will be providing ADSL2+ and VDSL2 services.

Telecom always has the option to seek relief from its operational separation undertakings. If Telecom is required to continue with the cabinetisation deployment on the assumption that the fibre to the cabinet will form a useful component of an FTTH network, then the resulting network architecture may be sub-optimal as it has been designed for a purpose other than FTTH.

112 Services able to be delivered over fibre are superior to those over ADSL2+ and VDSL2, and there is a risk that the value of Telecom’s investment may be eroded as customers move to the fibre

network. As such, Telecom may not have made this investment had it known the environment would change.

While services delivered over fibre may be superior to those delivered via ADSL/VDSL, the reality is that most consumers will not be aware of or concerned about the difference and may be attracted to a lower specification but cheaper services. In these circumstances, Telecom may well decide to continue with the deployment of its FTTN project and chose to compete directly with any fibre overbuild. In these circumstances, concern over the erosion of the value of Telecom's network may be misplaced. as this response would seriously undermine any investment business case. This reinforces the conclusion that the delivery of this initiative needs to include Telecom if it is to succeed.

113 However, the government can help mitigate this risk. Telecom will be able to participate in the contestable process and so is able to access the government investment. In addition, Telecom will be able to access dark fibre on the new network. It is also able to seek a review of its Operational Separation Undertakings.

Noted

Opposition from telcos

114 There is a possibility of opposition to the proposal by existing telcos (in particular, Telecom, Vodafone and TelstraClear), which may see the proposal as undermining and competing with their investments and plans. While this is a risk, it should be noted that all telcos will be able to submit proposals for some or all of the regions and the available investment, and all will be able to access dark fibre on the new network.

Vodafone has throughout this response expressed its support for the government's objectives around this initiative. While Vodafone has sought to highlight a number of areas where additional review is required, Vodafone is in no way opposed to the overall intent of the proposal.

Insufficient funding

115 There is a risk that the proposed funding could be insufficient to meet the coverage target, and that there is pressure for the government to increase its contribution. However, the initiative is designed to incentivise funding from other parties, and it is recommended that the government's contribution is capped at \$1.5 billion over six years.

The risk of there being insufficient funding is, in the current economic climate very real. The risk is exacerbated by the risk that existing network operators will be subject to proposed overbuild and have the ability to price services on their network at levels that will make it impossible to sustain a credible business case for the proposed fibre network. As an observation, it appears that it is this risk combined with the decision by Telstra to propose a non-compliant bid that played a significant part in the recent decision of the Australian Government to change its approach.

CONSULTATION

116 This paper has been prepared by the Ministry of Economic Development, in consultation with The Treasury. The Minister for Communications and Information Technology has held detailed discussions with a wide range of parties on how best to achieve the government's objectives.

Noted. But further consultation with the industry and other stakeholders could help improve eventual outcomes.

FISCAL IMPLICATIONS

117 The fiscal impact of this initiative will be a maximum of \$1.548 billion over six years, being \$1.5 billion to accelerate the provision of ultra-fast broadband to 75% of the population, and \$48 million to support rural broadband. This total amount will be off-set by reprioritisation of the previous government's \$340 million Broadband Investment Fund.

Noted.

118 Further detail on the fiscal impact, such as the split between operational funding and capital funding, the funding of project costs and the spread of funding over six years, will be developed during the Budget process.

Noted.

119 Prior to the 2009 Budget Round, the Ministers for Communications and Information Technology, Education and Finance will resolve the details of how the remaining \$116 million of the \$150 million on broadband for schools will be spent.

Noted.

HUMAN RIGHTS

120 There are no human rights implications of this paper.

Noted.

LEGISLATIVE IMPLICATIONS

121 At this stage there are no legislative implications of the proposals in this paper.

Noted.

REGULATORY IMPACT ANALYSIS

122 A Regulatory Impact Analysis has not been prepared, because there are no regulatory or legislative implications of the proposals in this paper at this stage.

Noted.

PUBLICITY

123 There will be significant publicity around this initiative. The Minister for Communications and Information Technology will make a public statement describing the government's goals for the broadband investment initiative, the proposal and the process for its implementation.

Noted.

RECOMMENDATIONS

124

All noted.