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NEW ZEALAND POLICY AND REGULATORY UPDATE

This report covers issues and activities from April 2014 to September 2014.

Broadband Deployment

Ultra-fast Broadband (UFB) Initiative

In 2009 the Government committed to investing up to \$1.35 billion alongside additional private sector investment to accelerate the roll-out of ultra-fast broadband to 75% of New Zealanders. This investment is referred to as the Ultra-fast Broadband (UFB) initiative.

The Government has established a Crown-owned investment company Crown Fibre Holdings (CFH) to manage the investment and to carry out the partner selection process. This open, transparent and contestable process resulted in the selection of four UFB partners - Northpower Limited for the Whangarei area, Ultra-fast Broadband Limited owned by WEL Networks Limited, in the central North Island, Enable Networks for the Christchurch area, and Telecom New Zealand Limited (now Chorus Limited) for the remainder of the UFB coverage areas.

The design of the UFB programme prohibits participation by wholesale broadband providers who also participate in retail activities. To abide by this condition, New Zealand's largest telecommunications company, Telecom New Zealand, structurally separated itself into two new companies: Spark Limited and Chorus New Zealand Limited. As at November 2011, Spark is responsible for the operation of the former Telecom's mobile network and retail telecommunications services, and Chorus is responsible for the former Telecom's fixed copper access network, and new fibre network established under the UFB programme. Following the separation, Chorus successfully bid to become a UFB partner, thereby precluding it from participating in the future supply of retail services, and of services above Layer 2.

In September 2014, the Government announced that it would invest an additional \$152 - \$210 million to expand the coverage of the UFB initiative from 75% to 80% of New Zealanders. This funding will be targeted at smaller New Zealand towns which missed out on coverage under the first phase of the UFB.

Progress as at 30 June 2014

- As at 30 June 2014, UFB is available in 31 New Zealand towns and cities, and over 500,000 New Zealanders now have access to fibre.
- About 39% of the UFB build has been completed, with uptake at about 7.5%.
- Furthermore, 41 of the most remote rural schools in New Zealand now have access to broadband capable of peak speeds of at least 10 megabits per second, which is about four times faster than previous services.
- More than 2238 schools are now able to connect to fibre (90% of New Zealand schools).

Further detail on the deployment can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/fast-broadband/pdf-and-documents-library/ultra-fast-broadband-intiative/broadband-deployment-update-30-june-2014.pdf>

Rural Broadband Initiative (RBI)

The deployment of the Rural Broadband Initiative (RBI) is now underway with fibre, wireline and wireless infrastructure being deployed from 30 June 2011 by Chorus New Zealand Limited and Vodafone New Zealand Limited. At the end of the six year deployment programme the RBI will have:

- connected 97.7% of schools to fibre, enabling speeds of at least 100 Mbps, with the remaining 2.3% achieving speeds of at least 10 Mbps; and
- enabled 97% of New Zealand households and enterprises to access broadband services of 5 Mbps or better, with the remaining 3% to achieve speeds of at least 1 Mbps.

In September 2014, the Government announced that it would invest an additional \$150 million towards improving rural broadband:

- \$100 million will be made available to communities on a contestable basis to extend fixed broadband connectivity to homes and businesses outside the UFB footprint. This may include additional wireless broadband towers, upgrading cabinets to be VDSL or ADSL capable, building new cabinets in areas with very long lines which are currently incapable of receiving a broadband services, and addition extra ports in cabinets where customers are currently unable to get connections. Network service providers, communities and local councils will be able to make applications to the fund.
- The remaining \$50 million will be used to address cellular coverage black-spots in rural and remote areas.

Progress as at 30 June 2014

- As at 30 June 2014, more than 195,415 homes and businesses in rural areas now have access to faster broadband under the RBI.
- 89 towers have been installed and 262 have been upgraded by Vodafone under the RBI, benefiting 195,415 households. Chorus has upgraded 72,068 lines to roadside cabinets during the same period, benefiting 72,068 households (72% of target population).

Further detail on the deployment can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/fast-broadband/pdf-and-documents-library/ultra-fast-broadband-intiative/broadband-deployment-update-30-june-2014.pdf>

Telecommunications Service Obligations (TSO) Review

The Government has initiated a review of the Telecommunications Services Obligations (TSO) for local residential telephone services. A TSO may be considered akin to a universal service obligation, and is established through an agreement under the Telecommunications Act between the Crown and a TSO provider.

The TSO under review is one which requires privately-owned telecommunications company Spark (with support from network operator Chorus) to provide for the local residential telephone service, including free local residential calling and emergency services calling.

The objective of the review is to test whether the consumer protections offered by the TSO remain necessary and relevant, or if competition and government supply-side initiatives have rendered them redundant (by ensuring the supply of basic telecommunications services). The review will also test the practicality of adopting universal, rather than provider-specific, arrangements for TSO. Other matters for consideration are the impact of TSO funding arrangements on providers, market competition, and industry development, and ensuring that TSO regulation does not pose a barrier to innovation.

Work on the review is ongoing. However, preliminary findings suggest that competition and government supply-side initiatives would not on their own ensure access for all residential customers to basic telecommunications services.

Further information regarding the TSO review can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/communications/telecommunications-service-obligations/tso-review/review-of-the-tso-for-local-residential-telephone-service>

Review of the Telecommunications Act 2001

The Government has initiated a comprehensive review of the policy framework for regulating telecommunications services in New Zealand. Section 157AA of the Telecommunications Act 2001 requires the initiation of such a review before 30 September 2016.

The objective of the review is to ensure that New Zealand possesses a stable, predictable regulatory framework that promotes competition and facilitates investment in infrastructure; supports telecommunications markets which deliver competitive prices and innovative products; and ensures consumers gain early access to high quality, widely available telecommunications services.

The scope of review is wide ranging. As per the Act requirements, it must take account of the market structure, technology developments, and competitive conditions in the telecommunications industry at the time of the review, including the impact of fibre, copper, wireless, and other telecommunications network investment. It will examine the overall effectiveness of the regime in the long term, covering issues such as the convergence of the ICT, broadcasting and communications sectors, IP interconnection, the transition from analogue to digital communications networks, and the long-term requirements of a regulatory regime for telecommunications post-2020. A key focus of initial work has been assessing the current access pricing regime and how it is applied to ensure that it promotes competition and investment.

Given this broad scope, it is anticipated that work on the review any resulting regulatory amendments will occur in stages over the following 24 months.

Further information regarding the Telecommunications Act review can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/communications/legislation-relating-to-the-telecommunications-sector/review-of-the-telecommunications-act-2001>

International Mobile Roaming (IMR)

The Government has directed officials to commence drafting the *Trans-Tasman Mobile Roaming and Other Matters Bill 2014*, that would, if enacted, enable the New Zealand Commerce Commission (the NZCC) to, where necessary, take coordinated regulatory action with the Australian Competition and Consumer Commission (the ACCC). These reforms would in effect empower the NZCC to:

- monitor the wholesale and retail prices and margins for IMR services;
- publish an annual report on retail prices and margins for IMR services as well as industry compliance with any retail and wholesale price-control arrangements in force for IMR services;
- impose wholesale price caps (or other price-control arrangements) on IMR services sold to Australian operators and suppliers as part of coordinated trans-Tasman action;
- impose wholesale access obligations on IMR services sold to Australian operators and suppliers as part of coordinated trans-Tasman action; and
- impose retail price caps (or other price-control arrangements) on IMR services sold to New Zealand customers travelling overseas.

Prior to imposing any price-control arrangements or access obligations the NZCC would be required to conduct an inquiry involving public consultation, in order to determine whether regulatory action is necessary. However, if prices for TTMR services continue to converge with domestic prices, the necessity for the NZCC to impose price regulation using the measures contained in the IMR Bill will likely diminish.

While the initial objective of the proposed legislation is to address trans-Tasman mobile roaming, there is scope for future cooperation with other countries.

Further information regarding mobile roaming policy can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/communications/mobile-phones/trans-tasman-roaming>

Emergency Calling

The Government has commissioned the development of a business-case for a next-generation emergency calling system. A key feature of the proposed system is a smartphone application that will capture and send caller location data to emergency service call takers when a call is made to the national 111 emergency number. It is anticipated that work on the business case will be completed by late-2014, and that subject to approval, the new system will be rolled-out over the subsequent 12-18 months.

The need to invest in a next-generation emergency calling system was highlighted in the findings of a review of the national emergency calling service, completed in February 2013. The review identified that the current lack of an automated system for the efficient collection or verification of location data associated with emergency phone calls made from mobile phones, coupled with the continuous increase in the number of 111 calls made from mobile phones, posed the most significant threat to the ongoing provision of efficient and effective emergency response services.

Further information regarding the 111 review is available here:

<http://www.med.govt.nz/sectors-industries/technology-communication/communications/emergency-call-services/111-review>

E-Health

Tele-health delivers health-related services and information using ICT to enable remote video consultations and information-sharing between health practitioners. It particularly lends itself to serving rural and remote communities.

New Zealand is actively pursuing the benefits of tele-health. The Ministry of Business, Innovation and Employment has partnered with the National IT Health Board and the Bay of Plenty District Health Board in a two-year \$300,000 tele-health trial project implementing applications that will use UFB or RBI.

The project aims to identify and reduce barriers to more widespread use of tele-health across a wide range of services. The initial focus areas of the project include emergency care, mental health, palliative care, patients with long-term conditions and aged-care. The project is particularly noteworthy for its delivery of both primary and specialist care to whole communities. More commonly, tele-health projects focus on improving patient access to medical specialists only.

On conclusion of the two year trial period in late 2015, the technology and practices are expected to be rolled out across the central North Island, before expanding to the rest of New Zealand.

Progress:

Benefits of the project are already being seen. For example:

- Small community health centres such as Opotiki and Te Kaha can consult with emergency departments by videoconference to decide if they should treat a patient onsite or whether to transfer the patient by ambulance or helicopter. This is an improvement on communication by phone as it allows the emergency department to visually check the patient.
- Local rural doctors can provide support for nurses at the 24/7 Opotiki Community Health Centre after hours from their homes, reducing their travel as well as the waiting time for patients. Community nurses are trialling taking cameras into patients' homes to consult the local doctor by video, with both patient and nurse involved.
- Staff shortages can be addressed. Fewer specialists need to be rostered in some situations as a specialist in one hospital can cover both sites. In Bay of Plenty, the mental health unit has covered a shortage of child and adolescent psychiatrists by contracting a specialist from another centre who regularly consults patients by videoconference.
- Patients in Eastern Bay of Plenty can now have follow-up consultations with specialists in larger centres by videoconference from their local medical centre, without leaving their home town. Patients on isolated Matakana Island now routinely consult a doctor in Papamoa over a videoconferencing link from the island.

Further information regarding the trial can be found here:

<http://www.med.govt.nz/sectors-industries/technology-communication/fast-broadband/healthcare/telehealth-project-in-bay-of-plenty>

Product Disclosure

In June 2012, the Ministry of Business, Innovation and Employment asked the Telecommunications Carriers Forum (TCF), an industry body representing major retail broadband service providers, to develop standards that would deliver a common template and set of information on fixed broadband products, that would allow consumers to easily compare broadband plans across providers.

In response, the TCF developed a Broadband Product Disclosure Code, which came into effect on 1 March 2014. This first iteration of the Broadband Product Disclosure Code covers fixed-line residential broadband plans only. However, it is intended that residential mobile and wireless broadband plans will be included in a future iteration of this Code.

The purpose of this Code is to allow consumers to:

- more easily compare key aspects of broadband plans offered by different service providers, including costs, contract terms and any termination fees, data caps and any traffic management policies that could affect speeds or access;
- select the best broadband plan for their needs; and
- see key information about service providers fixed line, mass market broadband plans.

In addition, the Code also specifies:

- how and where retail service providers will need to highlight offer summaries as part of their sales processes;
- a proposal for a new independent speed measurement scheme, including details of how average speed will be reported in the offer summary document and in advertising; and
- what information must be made available to consumers about issues and factors that may impact the customer's broadband speed and/or service.

To support the Code, and reporting on the speed performance of broadband plans, Ministry officials are working with the TCF and the New Zealand Commerce Commission to develop a standardised testing methodology, to provide more reliable information on actual broadband speeds¹ and performance.

Work on this is expected to be completed in late 2014.

Further information regarding the Broadband Product Disclosure Code can be found here: <http://www.tcf.org.nz/content/72e2572f-fd9e-49fc-b2de-05a73bb5701d.html>

Review of the Radiocommunications Act 1989

The Radiocommunications Act is an enabling act which sets out the management regime for the radio spectrum in New Zealand. It establishes two regimes for spectrum management, the management rights regime and the radio licensing regime.

The Act sets out few process requirements around the management of the radio spectrum which has enabled a flexible approach to spectrum management. While the Act has not been an impediment to deployment of the rapid changes in wireless technology to date,

¹ As opposed to peak speeds, which are frequently published for marketing purposes.

emerging technologies based on dynamic spectrum access² present some greater challenges.

In July 2014 the Government agreed the release of a discussion document on issues raised in the review. Submissions and cross submissions close in mid-November 2014. The overarching theme of the review is whether the Act achieves an appropriate balance between flexibility in responding to the changing environment and predictability of the regulator's actions.

The discussion document assumes that the fundamental concepts of radio spectrum management in New Zealand remain sound. The document questions whether the Act achieves the appropriate balance between flexibility and predictability for users. The key areas of the radio spectrum management regime to be considered in the review are:

- interference management
- competition regulation during spectrum allocations
- technical definition of management rights and licences
- regional division of management rights
- regulation of new technologies such as cognitive radio and white space devices.

Further information regarding the Radiocommunications Act review can be found here: <http://www.rsm.govt.nz/cms/tools-and-services/current-news/rsm-is-reviewing-the-radiocommunications-act-1989>

Interim White Space Licensing Rules

TV white spaces are the unused frequencies between television channels. They cannot be used for other television channels without harmful interference occurring, but in many cases there is potential for them to be used for wireless broadband or other technologies.

The Ministry of Business, Innovation and Employment is in the process of formulating draft licensing rules for the use of television white space devices in New Zealand. The draft rules are intended as an interim measure to allow users to trial white space technologies. They may be replaced by a more permanent licensing framework in the future pending the government's current review of the Radiocommunications Act 1989 (see above).

It is hoped that issuing the interim rules will enable new opportunities for new ways to deliver wireless services such as broadband. This is considered increasingly important as new technologies continue to drive demand for wireless frequencies.

The draft rules have been designed to protect the interests of existing spectrum users - television broadcasters and wireless microphone users. White space users in New Zealand would need to gain radio licences and conform to American or European Union device standards.

The relevant device standards are:

- FCC CFR Title 47, Part 15, *Subpart H - Television Band Devices 15.701 - 15.717*
- ETSI EN 301 598 '*White Space Devices (WSD); Wireless Access Systems operating in the 470 MHz to 790 MHz TV broadcast band*'.

The draft licensing rules allow white space use in unused frequencies from 510-606 MHz. They do not allow white space use in the top portion of the television band (622-686 MHz),

² Dynamic Spectrum Access technologies are able to identify and make use of frequencies in a particular area that are not being used.

or in the Te Pūtahi Paoho (Māori Television Service) spectrum management right (606-622 MHz) as the Crown cannot grant licences in privately held management rights.

Following a review of public submissions on the rules, the Ministry hopes to finalise the interim rules by late 2014.

Further information regarding the television white space licensing rules can be found here: <http://www.rsm.govt.nz/cms/policy-and-planning/consultation/television-white-space-licensing-rules>