



Regulatory Affairs

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Neville Lord
Commerce Commission
Level 6, Vector House
44-52 The Terrace
Wellington

Dear Neville

SUBMISSIONS ON THE DRAFT PRINCIPLES AND REGULATORY REPORTING REQUIREMENTS FOR THE ACCOUNTING SEPARATION OF TELECOM

Below is Telecom's response to some of the matters raised in the submissions to the Commerce Commission (the "Commission") on its paper outlining the *Draft Principles and Regulatory Reporting Requirement for the Accounting Separation of Telecom* ("Draft Paper"). In particular, Telecom wishes to respond to the request from the Ministry of Economic Development ("MED") for specific reporting in regard to the Telecom Service Obligations ("TSO"). Telecom does not take issue with the MED requesting further TSO-specific information. Indeed, Telecom has already this year publicly committed to further transparency of expenditure of TSO compensation payments we receive.¹ We do not agree however that accounting separation reporting is the appropriate mechanism by which this information should be required to be disclosed.

Inclusion of TSO service performance reporting in accounting separation reports is inappropriate

The addition of TSO service performance reporting to the Commission's accounting separation requirements would represent a departure from the clear principles and objectives for accounting separation that were set out in the Commission's Draft Paper. Its addition would amount to designing the accounting separation regime to reflect the particular regulatory issues of the day (the same would be true for example if NGN design information was added as requested by InternetNZ). This

¹ <http://www.med.govt.nz/upload/56490/letter-rural.PDF>

approach to the design of the accounting separation regime would undermine the very purpose of accounting separation, which is to provide consistent, comparable financial reporting which can be used to transparently identify any potential cross-subsidies and measure non-discrimination.

The Minister of Communications has this year confirmed that the current MED-led review of existing TSO arrangements will result in TSO reform², which may include the introduction of a contestable TSO and multiple TSO providers. Given this, Telecom considers the reporting requested by the MED is better dealt with through direct negotiation between the Crown and the TSO provider(s) chosen by the Crown in the course of this review. Indeed, the existence of this review creates a very real risk that the addition of any TSO-specific reporting requirements to accounting separation reporting requirements on Telecom creates a significant risk of costly and unnecessary duplication of reporting requirements, and/or asymmetric reporting requirements on Telecom compared with those placed on any other TSO providers.

The information requested by the MED is not readily available, and would add cost and complexity to the proposed accounting separation requirements

Although it is unclear specifically what information the MED is requesting (in one place it suggests information on uneconomic TSO customers but in all others it appears to request information on all TSO customers), Telecom does not currently record or capture the breadth of information referenced in the MED's submission, or capture any information specifically on the "TSO service" or on "TSO customers". We expect that adding a requirement to report TSO-specific information would significantly increase Telecom's compliance costs, and put further pressure on the timeframes for production of Telecom's accounting separation reports.

The MED have not indicated the purpose for which any information would be used, which makes it very difficult to predict how the data would need to be prepared, or comment on whether it could be used for the purpose desired. We note that the new Act has a new section (s100B) specifically seeking the kind of information about the TSO calculation that MED appear to be seeking here. Thus we must assume that the key difference between that information and the information it seeks here is that the latter will be reconcilable to Telecom's accounts. However if the MED are seeking information on unprofitable customers it is impossible to provide such a reconciliation. This is because the Commission does not identify

what customers are profitable or not until well after the end of the financial year (currently the latest final determination is for year end June 2004). It is hard to think of any method by which a reconciliation could be made in this situation, let alone see any value in trying to reconcile data from, say, the 2004 year with the accounting data for the current year.

Further the TSO cost modeling exercise undertaken by the Commission is for a hypothetical, forward-looking network that bears no relationship to Telecom's actual network. Telecom cannot see how asset or depreciation data from such a model could be reconciled to Telecom's asset data based on its actual network - even at a national level. At anything lower than the national level any reconciliation would be impossible as Telecom's accounting asset base has no geographical information associated with it.

Even matching unprofitable 'customers' in the Commission's analysis to actual customers, the fundamental starting point for any reconciliation, is likely to be a hugely complex task. The Commission deals only with dwellings occupied in Dec 2001 in its model. Telecom would have to find a way of translating these 2001 dwellings to actual customers in 2008. This is a non trivial and potentially impractical task.

There are already significant TSO information disclosure requirements

Finally, Telecom notes that under the terms of its current contract with the Government and of the Commission's annual TSO cost calculation exercise, Telecom is already required to provide:

- (1) An annual update of its service quality performance (as required by its contract with the Crown)
- (2) Evidence that capital investment in Telecom's Zone 4 area will exceed TSO compensation payments received from other service providers for FY2008/09 (as required by Telecom's side letter to the Minister of 30 March 2008);
- (3) Transparent annual accounting for the expenditure of TSO compensation payments Telecom receives (as required by Telecom's side letter to the Minister of 30 March 2008);

² <http://www.beehive.govt.nz/release/minister+calls+fundamental+review+tso>

(4) Annual Liabile Revenue information (as required in the Telecommunications Act 2001); and

(5) Annual Net Cost information (as required in the Telecommunications Act 2001).

This represents a significant level of TSO-specific reporting that is already available to the Commission.

Telecom would be happy to discuss its views further with the Commission. Please contact the writer if you would like any further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'JWS', is centered below the text 'Yours sincerely'.

John Wesley-Smith
Head of Regulatory Affairs