

5 January 2005

Commerce Commission
Wellington Office
44-52 The Terrace
PO Box 2351
WELLINGTON

Dear Sir/Madam

Re: Wealth Transfers and the Long Term Benefits Test.

Encompassing four regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 54-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

Business New Zealand would like to take the opportunity to briefly comment on the Commission's cost benefit analysis methodology in its draft report on the investigation into the regulation of mobile termination.

We believe that long-term benefits to New Zealand of any regulatory decisions made by the Commission should always be consistent and predictable. While we appreciate that the Commission desires to provide decisions that benefit New Zealand we are concerned that the Commission's cost benefit analysis methodology in its mobile termination draft report could have serious implications for the future of all infrastructure builders in New Zealand. This may result in a serious dampening in investment.

We are concerned about the approach taken by the Commission in its draft report that wealth transfers from producers to consumers are treated as a benefit of regulation. This focus on consumer welfare instead of the net public benefits of

regulation to the New Zealand economy does not promote the long-term benefits of New Zealand, which we believed to be the Commission's goal¹.

Of particular concern to us, and we expect to all New Zealand industries, is that the Commission has departed from the accepted framework of assessing regulatory options, replacing it with a focus on distributional considerations.

The risk for the Commission of mixing distributional and efficiency objectives is that the Commission will impose unnecessary, and potentially detrimental, regulation that could have a negative impact on New Zealand. Any attempt to lower the thresholds for regulatory intervention will only serve to hinder New Zealand in the future.

The government has other agencies such as IRD² and the MSD³ that specialise in the distributional issues for the economy. We do not consider that the Commission is one of these agencies. The Commission should return to a focus on economic efficiency of New Zealand industry. A simple comparison of the stated purpose of each agency highlights the difference between the agencies with a distributional emphasis and Commission's purpose that is in summary to focus on economic efficiency.

We would strongly recommend that the Commission should use a test of net economic benefit to New Zealand when making regulatory decisions. This is an established test under the Commerce Act and meets the Commission's purpose. To not use such a test risks regulatory interventions that may initially benefit consumers, but make New Zealand as a whole worse off.

It is also essential for New Zealand's infrastructure investors that there is some certainty around the principals of the Commission approach to long-term benefits if they are to continue to invest.

Again, we would like to thank you for the opportunity to comment.

Yours sincerely

Phil O'Reilly
Chief Executive
Business New Zealand

¹ Commerce Commission purpose statement
<http://www.comcom.govt.nz/TheCommission/PlansandReports/ContentFiles/Documents/StrategicPlan2004-2007.pdf>

² Inland Revenue Department Statement of Intent
<http://www.ird.govt.nz/aboutir/reports/2005soi/strivetoachieve.html>

³ Ministry of Social Development Statement of Intent
<http://www.dsw.govt.nz/publications/statement-of-intent/2004/>