



Operational Separation in New Zealand

Oceania Telecommunications Conference
Sydney, July 8 & 9, 2008

Dr Ross Patterson
Telecommunications Commissioner
New Zealand Commerce Commission
July 2008





Regulatory Environment 1989-2001

- No industry specific regulation.
- Reliance on competition law alone.
- “Hands off” rather than light-handed.

Industry Specific Regulation – The 2001 Act



- A Telecommunications Commissioner (within the competition body)
- 3 types of regulated services
 - Designation (Pricing Principles): e.g. Interconnection
 - Specification (Access required): e.g. Cell-site co-location
 - Multi-Network Services: e.g. number portability
- A process for resolving access disputes
- The TCF (an industry forum) and access codes regime
- TSO (universal service) framework
- Process for investigating new or changes to regulated services



2005/6 Review

Identified key problems with existing regime

- Arbitrate model not accessible to small players
- Incumbent behaviour:
 - Gaming investigation process
 - Locking small players into sub-optimal agreements
 - Discrimination
- Lack of robust enforcement provisions
- Dispute over incumbent's voluntary commitments on investment and deployment
- Broadband penetration low by OECD standards



2006 Changes to the Telco Act

- Introduced industry wide processes (Standard Terms Determinations)
- Introduced new regulated services
 - local loop and sub-loop unbundling
 - naked DSL
 - unrestricted bitstream
 - co-location in cabinets and exchanges
- Introduced functional separation and regulatory accounts
- Introduced greater enforcement powers

2006 Amendment Bill- Treatment of Separation



- First reading of the Bill provided for accounting separation and information disclosure only.
- Select Committee process also sought submissions on structural and functional separation options.
- Telecom volunteered a 2-box functional separation model

[Total Network/Wholesale] [Retail]

- Select Committee adopted a 3-box model

[Access network] [Wholesale] [Retail]



NZ Separation Process

December 2006 Amendment Act passed providing for:

- a stand-alone arms length network access services business,
- wholesale business unit(s) operated at arms length from retail business,
- retail business operated at arms length from any fixed network business.

Details of structure, services, assets and equivalence standards to be set out in Ministerial Determination.



NZ Separation Process (cont)

- **5 April** - Minister issued draft discussion document for public submission
- **27 April** - Submissions received
- **26 September** Minister's final Telecommunications (Operational Separation) Determination released
- **25 October** Telecom provided a draft separation plan and undertakings
- **21 November** Telecom announced CEO appointment for ANS & Wholesale
- **23 November** public submissions on separation plan closed



NZ Separation Process (cont)

- **14 December** Minister required Telecom to revise plan and undertakings.
- **19 December** new undertaking lodged.
- **24 December** Minister issued amended Determination
Submissions sought on revised undertakings and amended determination.
- **16 January 2008** ANS rebranded as Chorus

ANS Rebranded as "Chorus"





NZ Separation Process (cont)

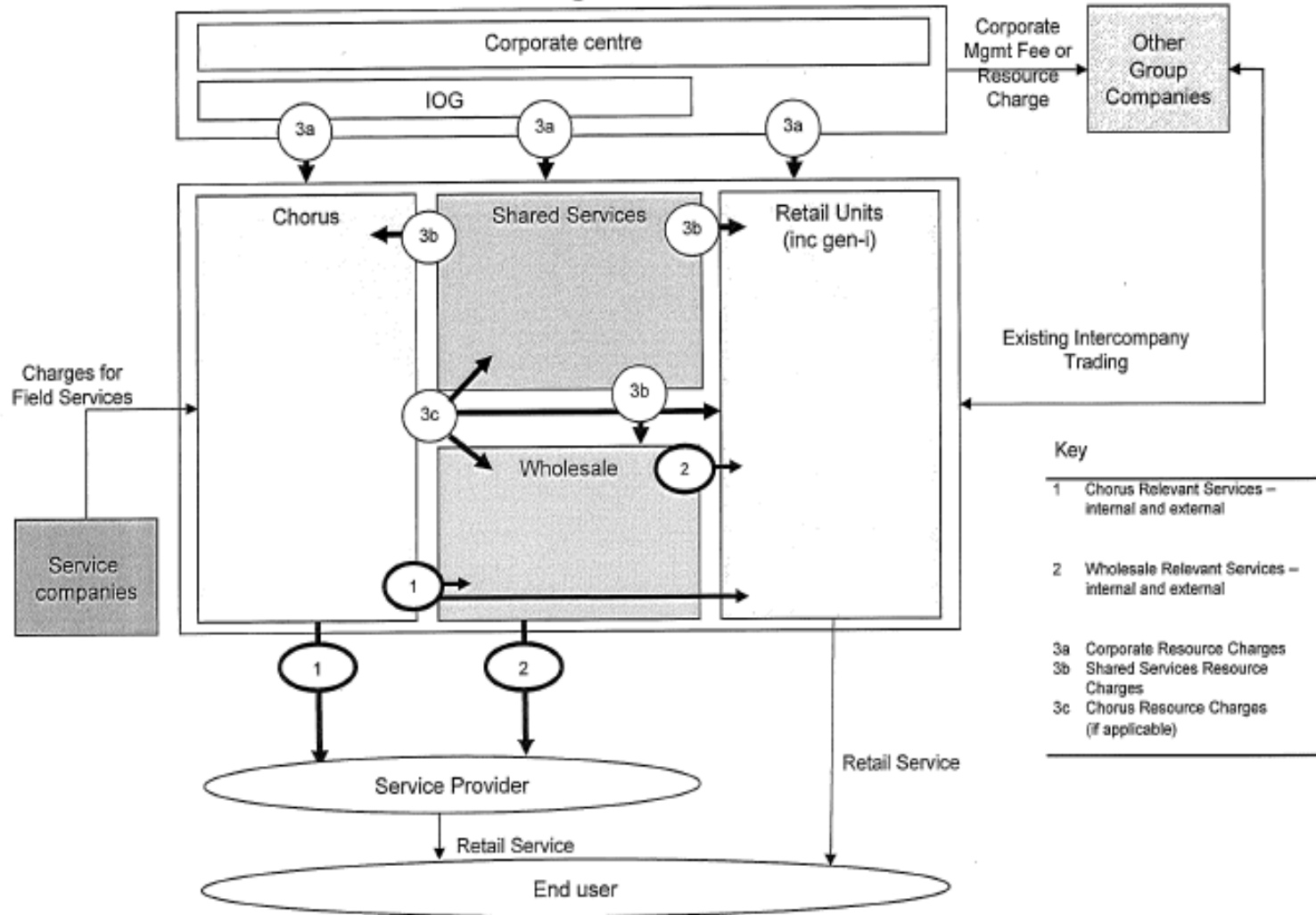
- **29 February 2008** Minister rejected amended determination and directed Telecom to rewrite specific provisions including:
 - o Wholesale incentives
 - o PSTN migration plans (investment requirements)
 - o IP interconnection requirements **25 March** Telecom submitted revised undertakings.
- **30 March 2008** - Minister approved revised undertaking.
- From the passing of the Act to the final approval of the undertakings took 14 months.



Key Elements of Functional Separation

- Functional de-integration of Telecom
 - Stand-alone access network unit
 - Arms-length wholesale and retail units
- Equivalence of access
 - EOI (Equivalence of Input)
 - Same product, price, using systems and information, product development etc.
 - Telecom must consume the identical product to its customers
- Non-Discrimination
- Transparency
 - Monitoring of compliance by Independent Oversight Group.
 - Development of compliance performance measures.

Internal Trading Relationships Overview



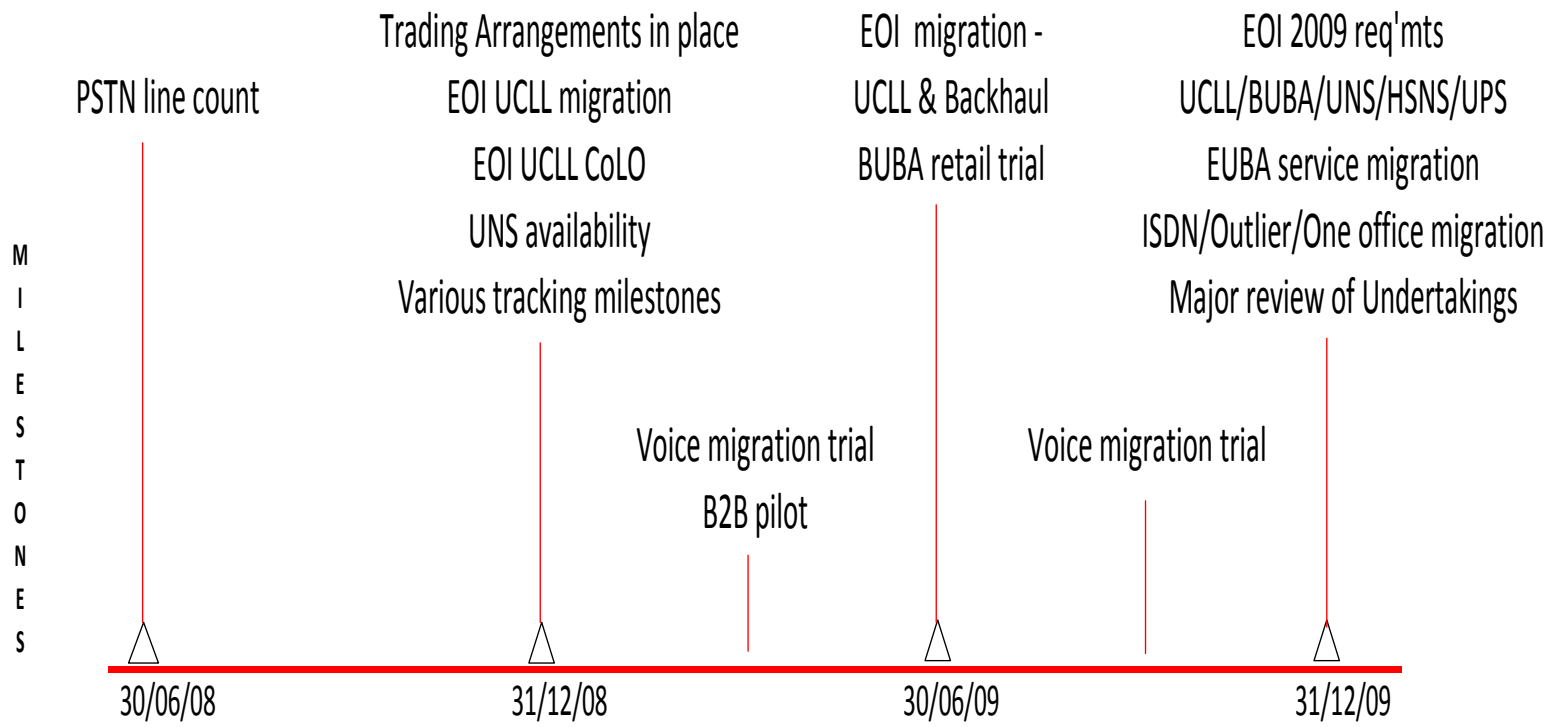
Note: The business units above are as defined in the undertakings.

Transition to EOI: Key Milestones 2008-2012

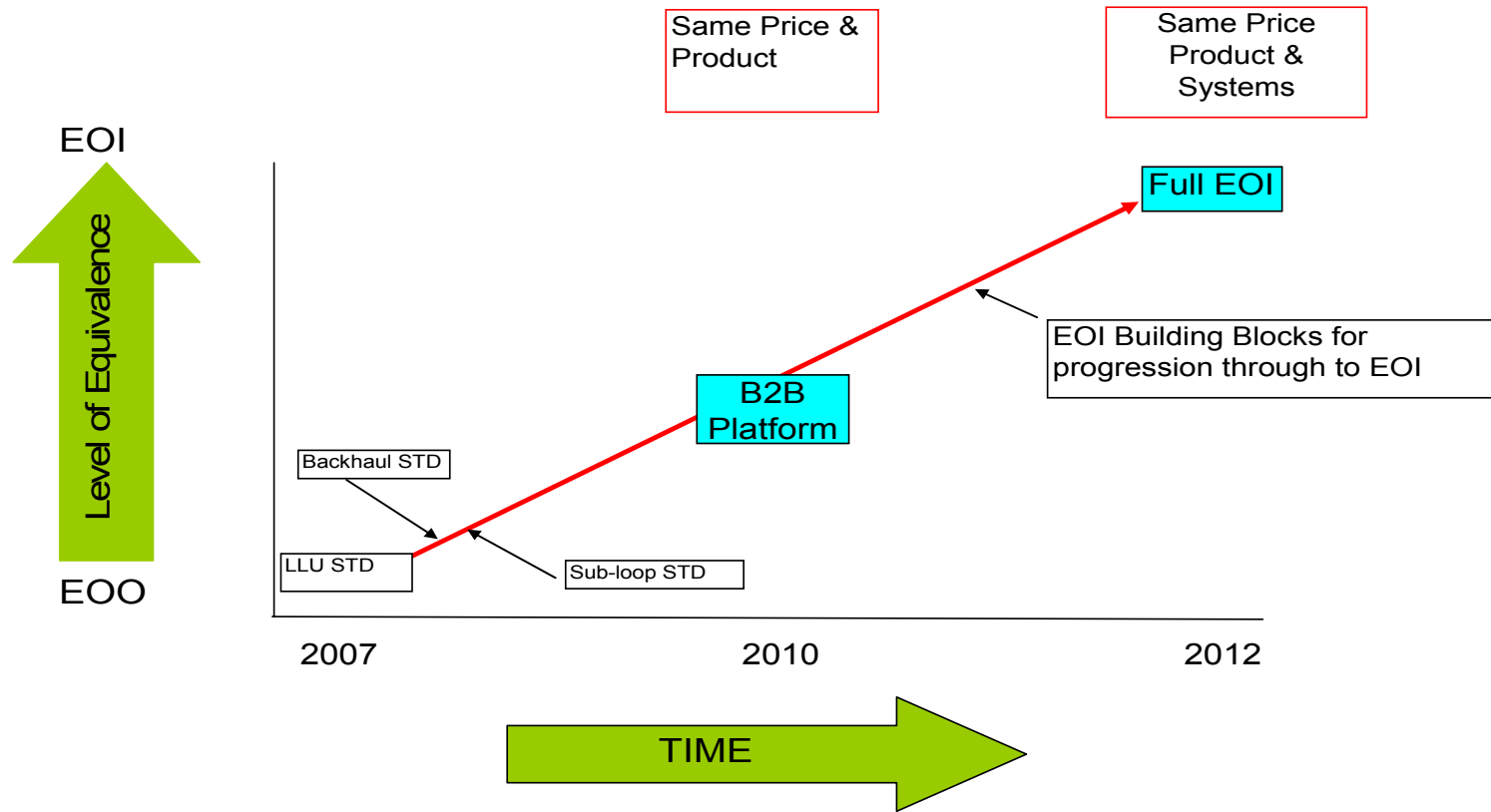


- 31 December 2009
 - UCLL consumed by Telecom as the input product for most relevant services
 - BUBA & EUBA consumed by Telecom as the input to Retail Broadband Services
- 31 December 2010 B2B Platform in place
 - (enables same product, same price, same interface)
 - 31 December 2012 Full EOI

Transition to EOI: Key 24 month Enforcement Milestones



Transition to EOI



Access Principles Apply to Standard Terms Determinations (STD's)

AP3 services provided on the terms and conditions (excluding Price) that are **consistent** with those terms and conditions on which the access provider provides the service to itself.



Effect of Undertakings

- Final undertakings are contracts between the Crown and TNZ
- Commission's role to enforce undertakings.
- Breach of Undertakings can attract penalty of up to \$10 million plus \$500k per day for continuing breaches



Roles of IOG & Commission

IOG – Compliance

- Role is set out in Determination
- Self Regulatory Model to monitor compliance
- Encourages compliance at least cost
- Avoids Commission micro-managing Telecom
- IOG Approves Telecom's Codes of Conduct and KPI's
- Reviews conduct against codes and KPI's
- Has no enforcement powers
- Has no governance powers
- Reports breaches to Commission

Commission - Enforcement

- Enforcement role is defined in Act
- Commission can request further information.
- Commission's role as backstop if self regulation fails.
- Close liaison with the IOG



www.iog.org.nz/

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IOG INDEPENDENT OVERSIGHT GROUP

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Welcome

As part of Telecom New Zealand's Separation Undertakings given to the New Zealand Government, the Independent Oversight Group (IOG) was established to monitor and report on Telecom's compliance with the Undertakings.

The IOG consists of five members with the majority of members being independent of Telecom.

The IOG monitors Telecom's progress towards delivery of separation milestones and on-going compliance with the Undertakings and reports regularly to both the Telecom Board and Commerce Commission. The IOG also investigates complaints from service providers regarding Telecom's compliance with the Undertakings.

MESSAGE FROM THE CHAIRMAN

“ Telecom's Separation Undertakings mark a significant change to the telecommunications industry in New Zealand. The Undertakings will ensure a level playing field for operators in fixed telecommunications markets. The IOG will play a pivotal role in overseeing the introduction of these changes. ”
Hon Barry Paterson, CNZM, OBE, QC.



DOCUMENT DOWNLOAD

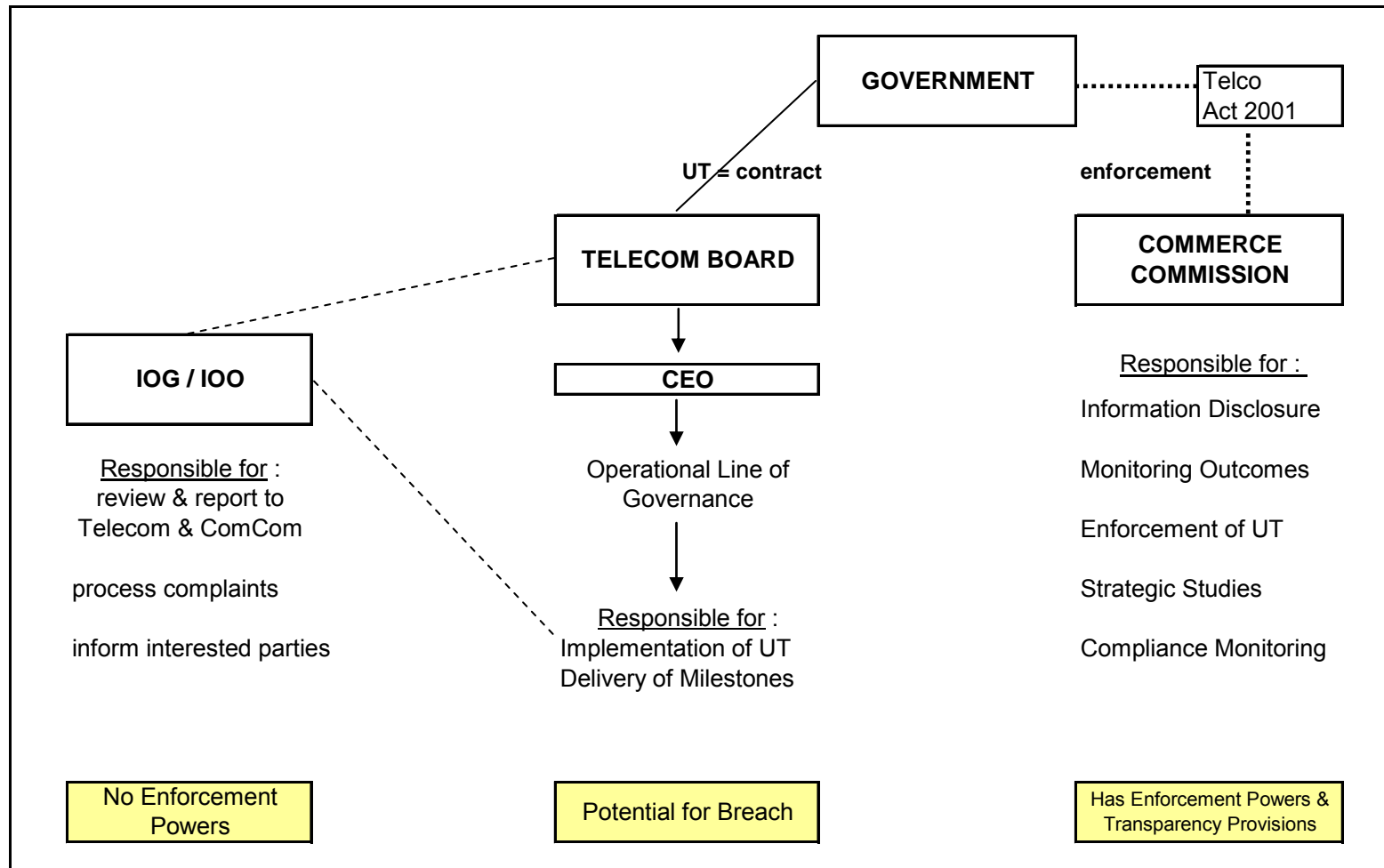
- [IOG Terms of Reference](#) (pdf 31kB) [Download >>](#)
- [Telecom's Separation Undertakings](#) (pdf 524kB) [Download >>](#)

HIGHLIGHTS

- Key Dates**
Meeting and reporting dates
- News**
News articles and reports from the IOG
- Meet the IOG**
Profiles of IOG members



Roles of IOG & Commission





Milestones to date

Separation Day - 31 March 2008

- Establish **Chorus**
- Transfer of responsibility for LLU to Chorus
- Establish **Wholesale**
- Process established for IP interconnection consultation
- Wholesale established NGN consultation programme

30 Days after approval of Undertaking (25 April 2008)

- **IOG** and IOG support office established
- Codes of Conduct submitted to IOG and Telecom Board
- Establishment of interim processes for EOI Building Blocks (part of PSTN migration plan)



30 June 2008 Milestones

- Existing PSTN line count complete
- Zones 1, 2, 3 definitions (for cabinetisation)
- Telecom own co-location trading arrangements in place
- EOI building block (sales order) contract signed
- EOI building block (inventory) contract signed
- PSTN migration – Retail contract for EUBA
Asset Valuation Statement for Chorus



PSTN to NGN Migration

- Determination provided that existing legacy PSTN services either:
 - be migrated to EoI, or
 - alternately that the those services be moved to EOI Compliant infrastructure.
- Telecom chose the latter, (however if it fails to meet the related migration plans the option becomes void and migration to full EOI by Dec 2011 is still be required.)
- NGN rollout to 80% of country (all towns 500+ people) to a minimum 10 Mbp/s by end of 2011. Will be achieved largely by cabinetisation.



PSTN to NGN Migration

3662 cabinets installed with ADSL2+ over 4 years

| | | |
|------|----------|------|
| 506 | Cabinets | 2008 |
| 1170 | Cabinets | 2009 |
| 1210 | Cabinets | 2010 |
| 776 | Cabinets | 2011 |

This is our biggest infrastructure upgrade ever

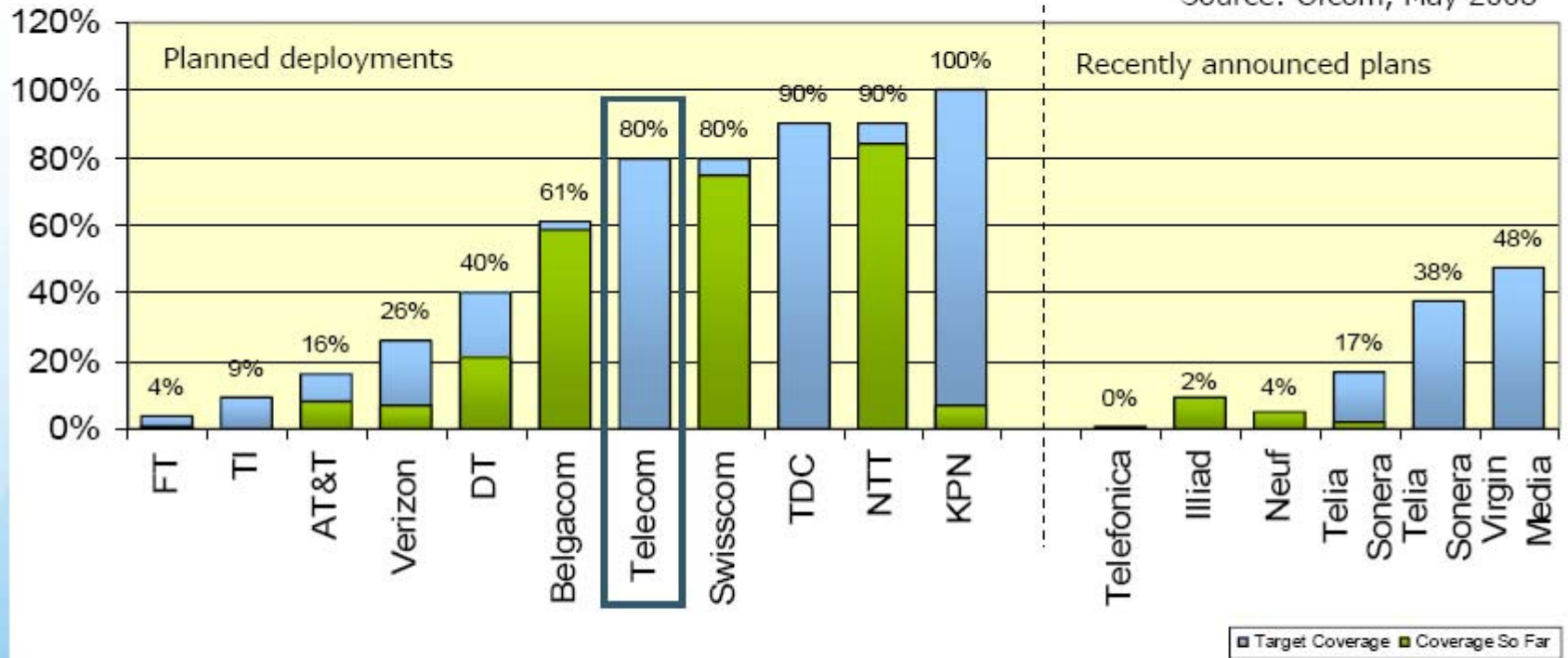
- 3600 new cabinets
- 2500km of new fibre – greater than the distance from Cape Reinga to Bluff
- We are ramping up from 90 cabinets a year to 1,200 or 25 a week
- All delivered by end of 2011
- 17 cabinets now live, serving 4500 customers



A Telecom New Zealand Division

How we compare

Source: Ofcom, May 2008



| | | | | | | | | | | | | | | | | | | |
|-----------------|------|------|------|------|------|------|------|------|------|------|------|--|------|------|------|------|------|-------|
| | Fra | Ita | USA | USA | Ger | Bel | NZ | Swi | Den | Jap | Net | | Spa | Fra | Fra | Fin | Swe | UK |
| Technology | FTTH | FTTC | FTTC | FTTH | FTTC | FTTC | FTTC | FTTC | FTTC | FTTH | FTTC | | FTTC | FFTH | FTTH | FTTH | FTTH | Cable |
| Target Year | 2008 | 2010 | 2010 | 2010 | 2009 | 2008 | 2011 | 2010 | 2010 | 2011 | 2010 | | NA | 2009 | 2009 | 2009 | 2013 | 2009 |
| Coverage so far | 0.6% | NA | 8% | 7% | 21% | 59% | 0.3% | 75% | NA | 84% | 7% | | NA | 0.9% | 0.5% | 2% | NA | NA |



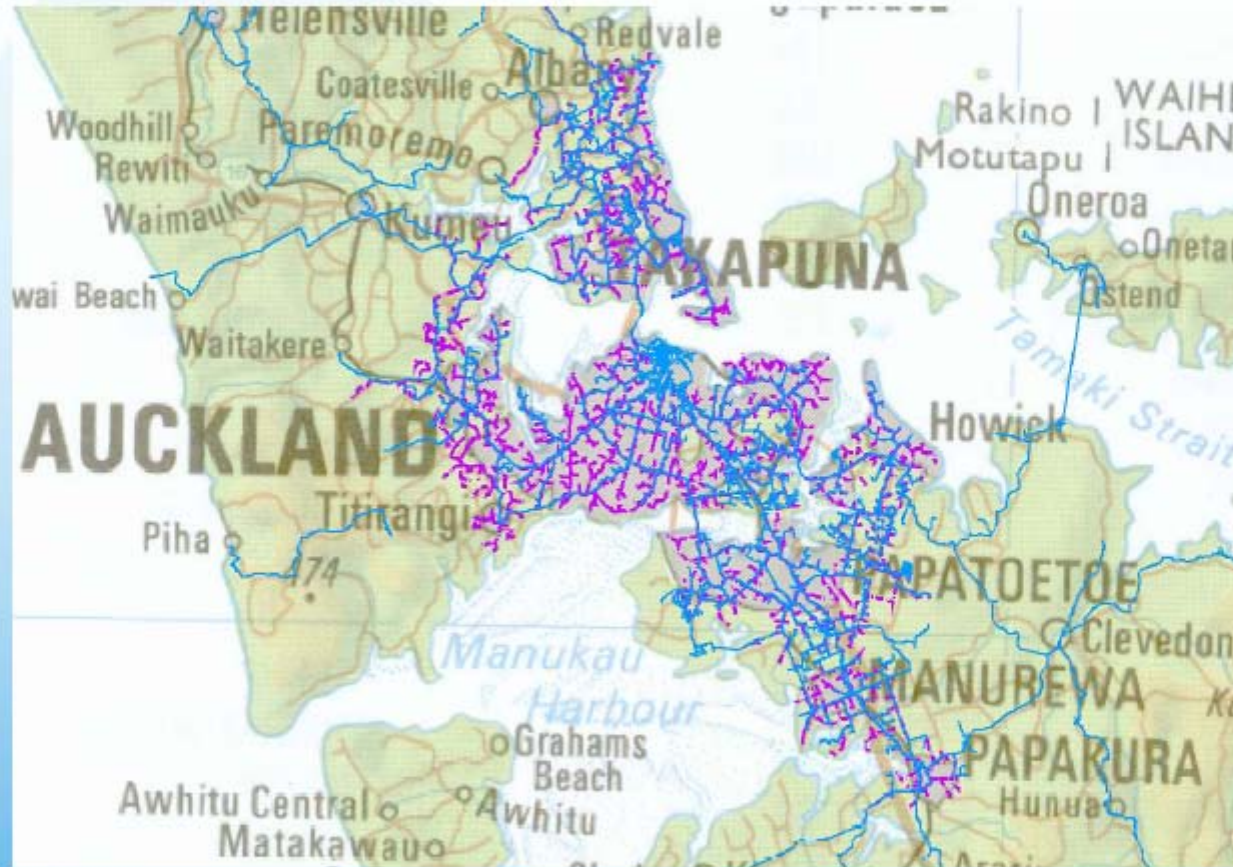
A Telecom New Zealand Business



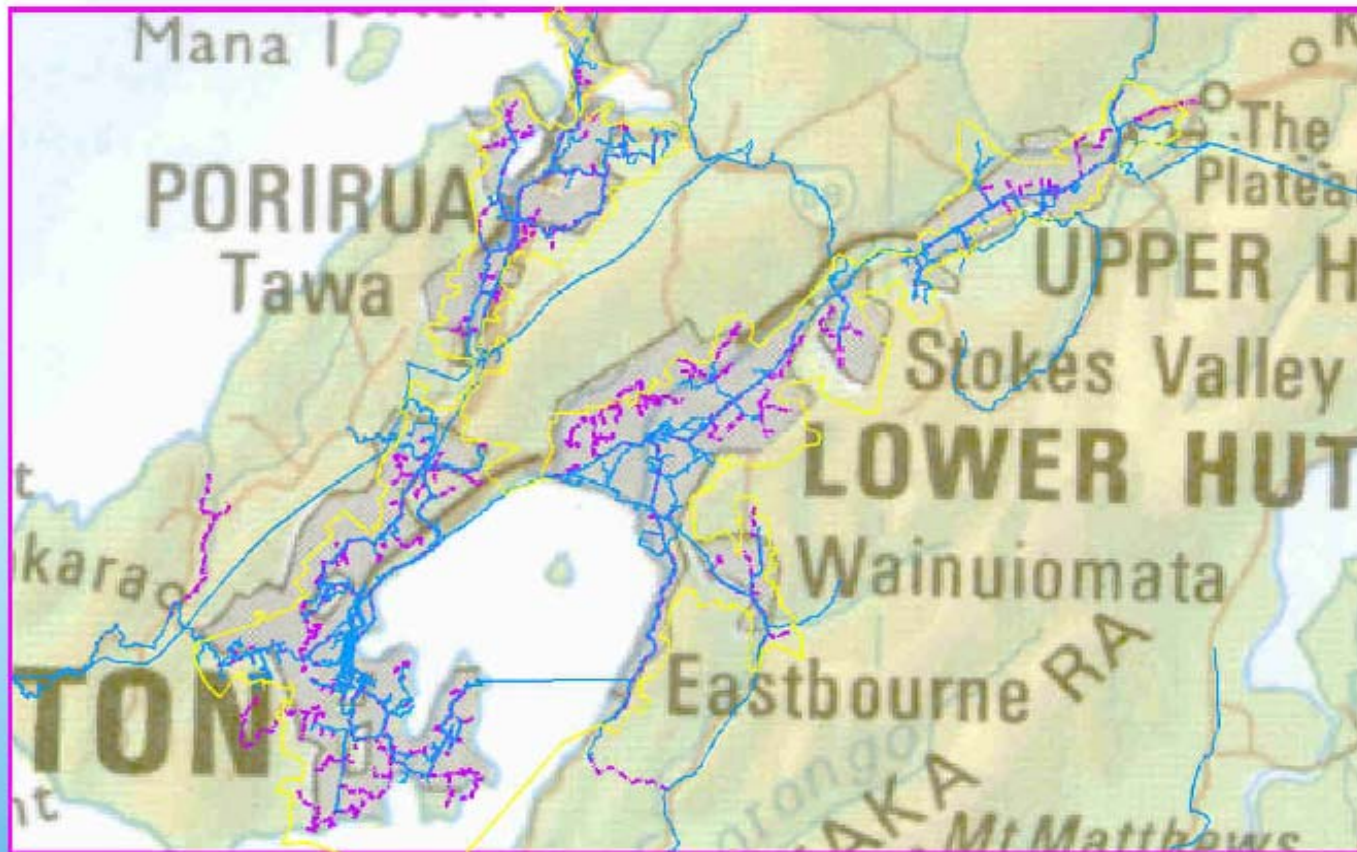
**This programme will *increase the fibre network*
*by more than 20 per cent...***

**..building on existing 8,000km of access CBD
rings and up to 12,000km of national transport**

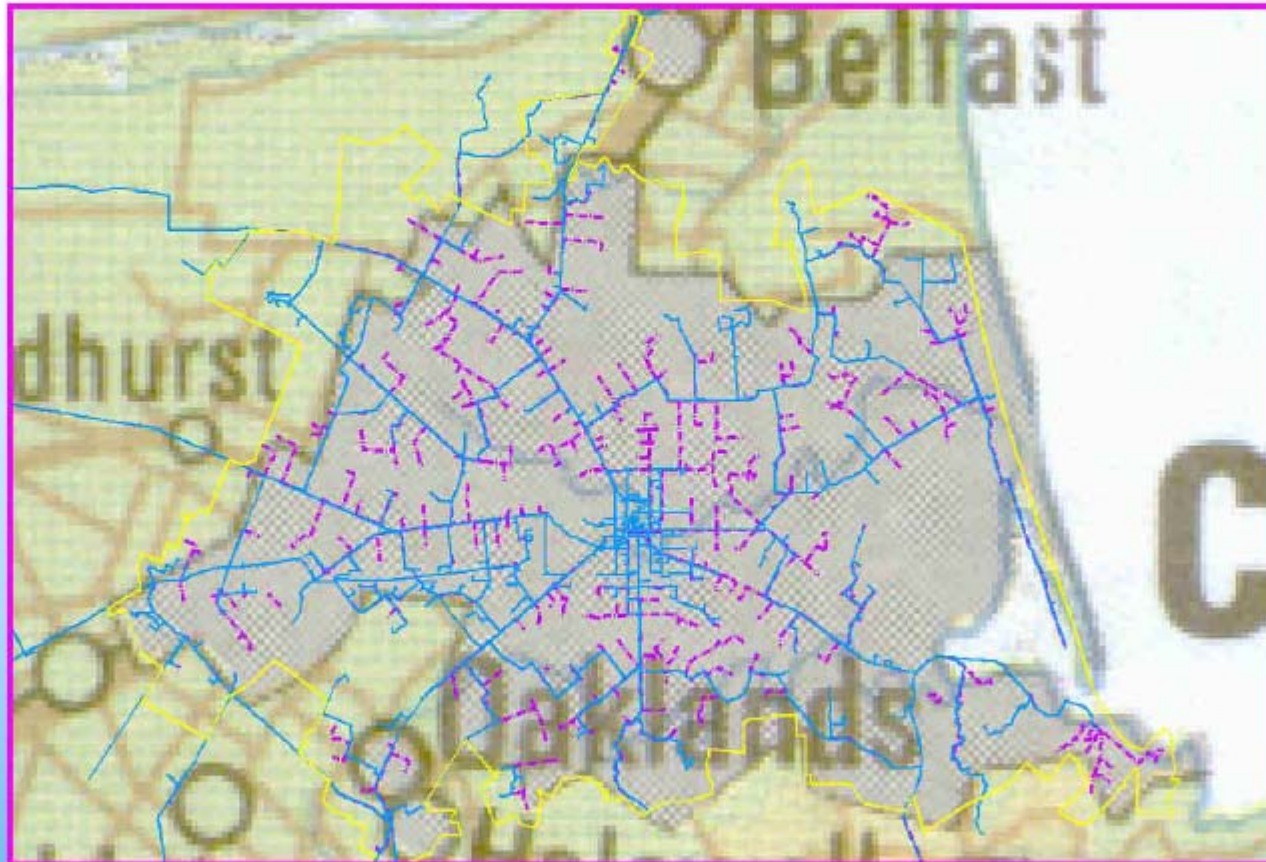
1,200 kms new fibre in Auckland...



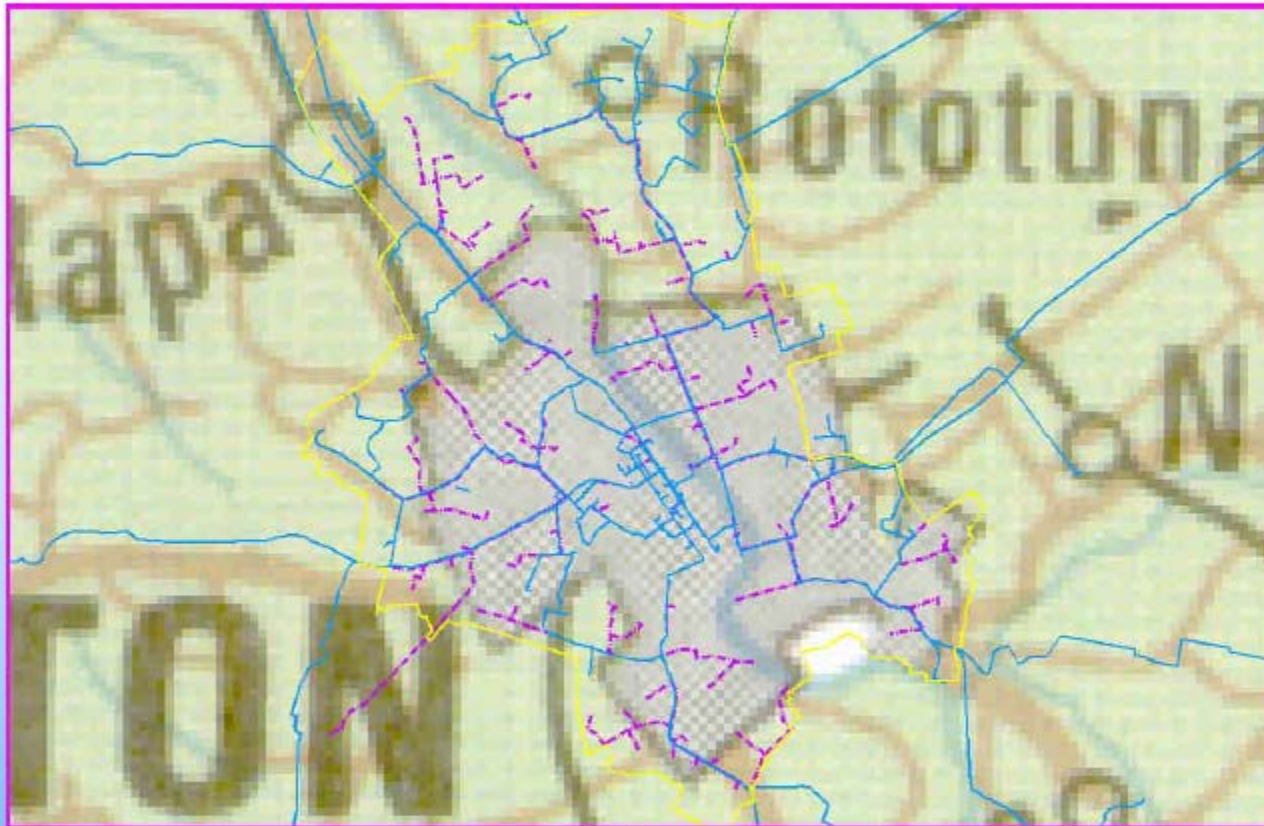
275 kms new fibre in Wellington...



205 kms new fibre in Christchurch...



and 83 kms new fibre in Hamilton



PSTN Migration Milestones



Tracking Milestones include :

- 30 June 2010

More than 1500 distribution cabinets have been installed or equipped with ADSL2+ or equivalent DSL capacity (e.g. VDSL capability) in Telecom Zones 1,2 & 3, with DSLAMs installed and operational. At least 99% of lines service d off these cabinets and within those zones will be engineered to have a maximum line loss of 60db measured at 1024 kbps at the external termination point.

Enforceable Milestones include:

- 2200+ cabinets Dec 2010
- 2800+ cabinets June 2011
- 3500+ cabinets Dec 2011



Sub Loop Access Regulation

Standard Terms Determination

Specifies sufficient terms to allow, without the need for the access seeker to enter into an agreement with the access provider, the designated access service

The Designated Access Services

- SLU: A service that enables access to, and interconnection with, Telecom's copper loop network (including any relevant line in the ... distribution cabinet)
- SLU Co-location: A service that provides co-location facilities for an access seeker's equipment, and access to the handover point at Telecom's distribution cabinet
- SLU Backhaul: A servicethat provides transmission capacity in Telecom's networkbetween the handover point in Telecom's cabinet (or equivalent facilities) and the handover point in Telecom's local telephone exchange.....



Accounting Separation

- Commission working on the development of regulatory accounts framework for Telecom
 - Relates to the operation of **all** or **any** of Telecom's network, wholesale and retail business activities as if those activities were operated as independent and unrelated companies.
 - Must not be inconsistent with Operational Separation
 - Will provide transparency of price and cost

- Draft paper on framework currently open for consultation on Commission website:

<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/AccSepofTelecom/documents.aspx>



Summary

Operational Separation:

- The most significant of the 2006 reforms
- Permanent not transitory
- Change of culture —————> change of conduct
- Chorus exceeding access seekers expectations. *“We are valued as customers and treated accordingly.”*
- A good platform to move into an NGN environment

Red Network





TUANZ Chairman

"Operational separation of Telecom NZ has been a huge success. It is all positive; there are no negatives.

From the moment the government announced the Separation plan on 3 May 2006, Telecom's behaviours in the market place changed. Before separation it viewed its wholesale customers as unwelcome campers on its network. The moment separation became inevitable, it immediately started to recognise them as valued business partners.

It took a leadership role and led the industry to develop standards and processes around wholesale and network access services many months before there was any requirement to do so under any legislation.



TUANZ Chairman

Further, Telecom has repeatedly stressed that separation has been good not only for customers and competitors, but for Telecom itself.

Competition has never been stronger in the New Zealand telecommunications market. Investment has been stimulated greatly as a result. Telecom people - from access network services (Chorus), Wholesale and retail are respected for the professionalism and integrity surrounding the implementation of the process.

Operational separation has been but one of several major policy advances over the past five years but it has had the biggest and most dramatic effect. It has been a major turning point not only for the industry, but for New Zealand's digital journey."

Ernie Newman Chief Executive, TUANZ