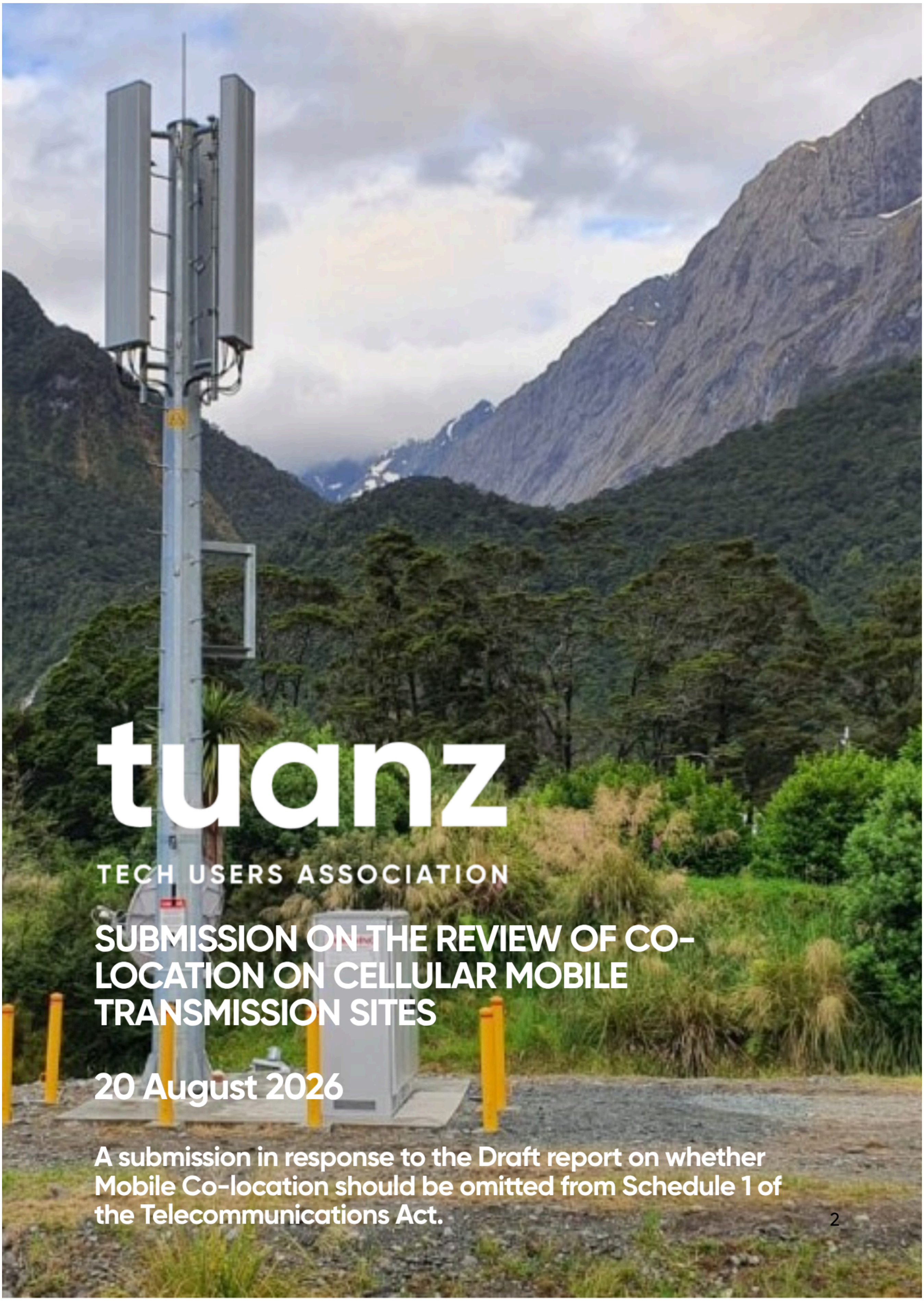

tuanz

TECH USERS ASSOCIATION

SUBMISSION ON THE REVIEW OF CO-LOCATION ON CELLULAR MOBILE TRANSMISSION SITES

20 August 2026

A submission in response to the Draft report on whether Mobile Co-location should be omitted from Schedule 1 of the Telecommunications Act.

Introduction

1. TUANZ is pleased to submit in relation to the Draft Report published by the Commission on 23 July 2026 on whether Mobile Co-location should be omitted from Schedule 1 of the Telecommunications Act. This submission is a Public Version and contains no confidential information.

2. Our address is PO Box 65503, Mairangi Bay, Northshore 0754 or Level 7, 62 Victoria Street West, Auckland Central. Our email address is office@tuanz.org.nz and our website can be found at https://www.tuanz.org.nz.

3. **Please note that from time to time, TUANZ prepares submissions on matters where our position may not align with the individual views or positions of all our members, and some members may disagree with the views expressed herein. To ensure transparency, we provide an advance copy of this submission to those members we consider have a relevant interest in the subject of this Submission (listed in Appendix A). These members may lodge separate submissions directly with the Commission, which reflect different perspectives from this TUANZ submission.**

The Technology Uses Association of NZ Inc (TUANZ)

4. TUANZ is the association for the users of digital technology and connectivity which is in its 40th year since incorporation. We are unique - **we believe there is no other group or organisation that is representative of the people and organisations that are the end users of digital technologies in the manner that TUANZ is. We value our independence and will always seek to speak for users without undue influence.**

5. Our members want to see a lift in the digital economy along with the continued development of strong markets across the technology and connectivity sectors providing real choice for end users – whether corporations or consumers. We seek a national drive to leverage the opportunities that we have with our world leading digital networks. **Our vision is that all businesses and individuals in Aotearoa will have unrestricted access to the technology and services needed to thrive; no one misses out on the opportunities in technology and digital engagement is safe and inclusive for all.**

6. TUANZ position is consistent and clear: **The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**

7. TUANZ is a not-for-profit membership association with over 150 members, predominantly large organisations with a strong dependency on digital technology and connectivity as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

Summary

8. TUANZ has been a key advocate over the years on many of the positive changes to the telecommunications market in New Zealand. We participated fully in the original development of the Telecommunications Act that included the Mobile Co-location service in Schedule 1.

9. As the independent voice representing end-users of digital technology across New Zealand, TUANZ advocates for strong, competitive connectivity markets. Our primary mandate is ensuring that regulatory settings lower barriers to entry, foster continuous innovation, and protect end-users from potential market failures.

10. While we acknowledge the shift in market dynamics brought about by tower asset divestment to independent TowerCos (Connexa and FortySouth), TUANZ maintains a cautious approach to deregulation. We present three core recommendations:

    a. Maintain Regulatory Backstops: TUANZ does not generally support the removal of hard-won regulation or the credible threat of regulation, which has historically served as an essential protective measure for downstream market competition.

    b. Trans-Tasman & International Alignment: The Commission should actively engage with Australian regulatory authorities (ACCC) to evaluate options for updating statutory definitions and bringing independent TowerCos under the regulatory umbrella rather than exiting regulation entirely.

    c. Mandated Ongoing Monitoring: If the Commission proceeds with omitting Mobile Co-location from Schedule 1, it should explicitly commit to ongoing annual monitoring of wholesale tower access conditions, pricing dynamics, and tenancy terms.

General Stance on Deregulation and Regulatory Backstops

11. TUANZ believes that regulatory safeguards are hard to win and easily lost. The original inclusion of Mobile Co-location in Schedule 1 played a pivotal role in enabling a third mobile network operator (2degrees) to scale its physical footprint, driving down retail prices and expanding geographic coverage for everyday Kiwis.

12. While we understand the Commission's finding that TowerCos currently operate outside the statutory definition of an "Access Provider" under Schedule 1, removing a designated service entirely removes the regulatory threat that keeps wholesale access fair.

13. The Commission asserts that TowerCos have natural commercial incentives to maximize site tenancy. However, TUANZ remains concerned about potential market distortions created by 15- to 20-year Master Services Agreements (MSAs) and anchor tenant arrangements negotiated between TowerCos and incumbent MNOs. Without a regulatory backstop, small new entrants or non-MNO access seekers could face non-price barriers, capacity reservation bottlenecks, or unfavorable pricing structures that lock in incumbent advantages.

Trans-Tasman Alignment and International Context

14. The draft decision relies heavily on a technical limitation: TowerCos do not operate cellular mobile networks and thus escape the Schedule 1 definition of an Access Provider. Rather than accepting this "regulatory gap" as a reason to deregulate, the Commission should actively work to solve it by looking closely at international developments.

15. In Australia, the Australian Competition and Consumer Commission (ACCC) has similarly identified regulatory gaps resulting from mobile tower divestments and has actively questioned whether existing access regimes remain fit for purpose.

16. Instead of completing a Clause 1(3) investigation to omit the service, we suggest that the Commission should work alongside Australian regulators and consider initiating a Clause 1(1) review. This would allow the Commission to update the legal definition of an Access Provider to

explicitly include passive infrastructure owners/TowerCos, keeping the regulatory regime fit for purpose.

International Regulatory Approaches Overview

Region / Jurisdiction	Regulatory Approach	Market Reality & Oversight
European Union & USA	**Light-touch / Commercial**	Tower markets are treated primarily as commercial real estate/infrastructure assets rather than telecom operators. Access relies on commercial negotiations, with competition authorities stepping in only under general antitrust law if abuse of dominance occurs.
Australia (ACCC)	**Monitoring & Active Review**	Like NZ, Australian MNOs sold off tower assets. The ACCC has acknowledged the regulatory "gap" created by tower divestments and has actively questioned whether access regimes remain fit for purpose.
Developing Markets	**Interventionist**	In markets with low competition or highly concentrated tower ownership, regulators enforce explicit licensing requirements, mandated lease terms, or capped co-location fees to prevent monopoly rent-seeking.

17. Globally, independent TowerCo models naturally achieve higher co-location ratios (more tenants per tower) than MNO-owned towers ever did, as their revenue depends on multi-tenancy. However, regulators internationally remain cautious about hidden access barriers caused by long-term anchor tenant agreements between TowerCos and the original MNO sellers. New Zealand should not move prematurely to total deregulation while peer jurisdictions like Australia are actively re-evaluating these frameworks.

Mandatory Commitment to Ongoing Wholesale Monitoring

18. If the Commission decides to finalise its recommendation to omit Mobile Co-location from Schedule 1, TUANZ proposes that deregulation should not mean regulatory blindness.

19. We ask the Commission to formally incorporate an explicit commitment to ongoing wholesale tower monitoring into its final report to the Minister. This monitoring framework should include:

    a. Commercial Pricing & Terms Trackers: Tracking wholesale co-location pricing and non-price terms negotiated by TowerCos to ensure pricing remains disciplined and non-discriminatory.

    b. Tenancy & Access Audits: Annual reporting on tower tenancy ratios and access request outcomes (including rejections or delays) for both MNOs and non-MNO access seekers.

    c. Impact on New Entrants: Assessing whether wholesale conditions continue to support the entry of new technologies, direct-to-cell services, or "thick" MVNOs attempting to scale their infrastructure.

20. Should market failures or unfair access terms emerge post-deregulation, this monitoring data will provide the evidence required to swiftly reinstate regulatory oversight.

Final Comments

21. TUANZ urges the Commerce Commission to reconsider the complete removal of Mobile Co-location regulation. We ask the Commission to explore trans-Tasman options for bringing TowerCos within scope, and at minimum, establish a robust monitoring regime to safeguard long-term user interests in New Zealand's mobile market.

Appendix A

Members we consider have a relevant interest in the matter.

- 2degrees
- Connexa
- FortySouth
- One NZ
- Spark