

# Hon Paul Goldsmith

Minister for Arts, Culture and Heritage  
Minister of Justice  
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Tristan Gilbertson  
Telecommunications Commissioner  
Commerce Commission  
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Dear Tristan

## Implementation of Telecommunications Regulatory Review recommendations

As you are aware, Cabinet recently took decisions following the completion of the Telecommunications Regulatory Review (**the Review**) led by the Ministry for Regulation (**MfR**). Cabinet endorsed 18 of the Review's 22 recommendations. I am writing to encourage the Commerce Commission (**the Commission**) to begin work on implementing four recommendations directly related to the Commission's expertise and activities.

The 18 recommendations Cabinet endorsed following the Review focus on targeted changes to the telecommunications regulatory regime, including the Commerce Commission's regulatory powers and obligations, and supporting regulatory tools under the Telecommunications Act 2001 (**the Act**).

Officials from the Ministry of Business, Innovation and Employment (**MBIE**) are working to implement the Cabinet decisions on the Review recommendations, in conjunction with other relevant agencies. Many of the Review's recommendations will require legislative changes, which will be progressed in due course through the legislative process. Other recommendations were for actions that can be undertaken under the current regulatory regime by MBIE, the Commission or other agencies.

## Reviewing anchor services regulation

Review Recommendation 3 was for the Commission to review anchor services regulation in 2026. The current anchor services were developed for the implementation of the new fibre regulatory regime following the 2018 reforms. They are set in the Telecommunications (Regulated Fibre Services) Regulations 2021, made under section 227 of the Act (noting that provisions relating to material incorporated by reference were subsequently set aside following a judicial review).

The regulated anchor services are:

- Basic broadband service – offers 100 megabits per second (Mbps) download and 20 Mbps upload speeds
- Basic voice service – provides voice-only communication using fibre technology.

MfR noted that technological change and faster, more reliable fibre broadband services may call into question whether the anchor services remain fit for purpose. However, MfR also noted that anchor services may still be acting as an important safeguard that supports the affordability of fibre services and competition.

The Review recommended that the Commission undertakes a review of anchor services in 2026, which should consider:

- the interaction with related mechanisms (such as the geographically consistent pricing rule) and whether the anchor services are achieving their policy objectives
- whether the anchor services regulations should be updated or phased out, considering technological advancements.

Review Recommendation 4 recommended that following the Commission's review of anchor services, MBIE should consider whether geographically consistent pricing should be retained, repealed, or modified. MBIE will await the outcome of the Commission's anchor services regulation review, prior to implementing this recommendation. I encourage the Commission to consider commencing a review of anchor services regulation this year, subject to your existing work programmes that have statutory deadlines.

I am aware that the Commission has recently published its findings from the fibre deregulation review under section 201 of the Act, including issuing a recommendation to me to deregulate Voice Fibre Fixed Line Access Services (**FFLAS**). I understand that the Commission's view is that deregulating Voice FFLAS would mean that the voice anchor service effectively falls away (as Chorus would no longer be required to provide this).

I am awaiting advice from my MBIE officials to inform my response to the Commission's deregulation recommendation. In the meantime, I would encourage the Commission to consider how best to give effect to the anchor services review recommendation.

Following any Commission review of anchor services, I would be interested in hearing whether anchor services remain fit for purpose and/or whether the Commission would like to recommend any changes for my consideration. I would be grateful if the Commission would update MBIE officials of its intentions for a review of anchor services.

### **Streamlining deregulation review processes**

Review Recommendation 7 was to streamline fibre, and any other deregulation review processes, from a two-step process into a single-step process. Specifically, MfR has recommended removing the "reasonable grounds assessment" as a separate step for fibre deregulation review. The intention behind this recommendation was to reduce regulatory burden on the sector by decreasing the number of consultations required, while maintaining transparency and providing a faster and more predictable process for deregulation decisions.

Cabinet has agreed to amend the Act to streamline the fibre deregulation review process in section 210 so that it can be undertaken in a single consultative step. However, I understand that the Act currently gives the Commerce Commission discretion as to whether to consult on reasonable grounds. My officials are considering how to implement this Cabinet decision. I have asked them to consult with the Commission throughout this process.

In addition, Cabinet agreed with MfR's view that it would be useful for the Commission to more generally consider how deregulation review processes in the Act could be streamlined. I encourage the Commission to consider this question this year and provide any suggestions to my officials at MBIE so that they could be incorporated into a future legislative vehicle, if necessary.

### **Reviewing fibre layer 1 unbundling rules**

Review Recommendation 10 was to repeal physical fibre layer 1 unbundling requirements. Fibre layer 1 unbundling requirements are set out in the Deeds of Open Access Undertakings required by Part 4AA and also in Part 6 of the Act. The purpose of the unbundling requirements is to promote competition and innovation in the fibre broadband market for the long-term benefit of end-users.

The review found that while the requirements were intended to promote competition, there has been a lack of uptake of this service by retailers and attempts to use the model have failed to achieve commercial viability.

While acknowledging the review findings, the Minister for Regulation and I had concerns about the potential adverse effect on competition if unbundling requirements are repealed. I understand that some submitters took the view that the requirements act as a potential safeguard against market power.

Cabinet has determined that it would be prudent for the Commission, as an expert advisor on competition matters, to undertake a review of layer 1 unbundling requirements before Ministers make any further decisions on these settings.

For that reason, I encourage the Commission to undertake a review of fibre layer 1 unbundling settings. I anticipate this would encompass relevant requirements set out in Deeds and Parts 4AA and 6 of the Act. I am specifically interested in the Commission's views on:

- whether the lack of uptake of unbundled services is due to unbundling being fundamentally uneconomic, or because the current unbundling requirements do not provide an appropriate rule framework to adequately facilitate unbundling
- any views on the grounds for deregulating, or alternatively, potential amendments to the requirements relating to fibre layer 1 unbundling if the Commission considers more uptake of fibre layer 1 unbundling would be likely to improve competition in the telecommunications market and provide long term benefits for end-users.

My preference is that this review is commenced in 2026, but as with the review of anchor services regulation, I am conscious the Commission already has an extensive telecommunications programme with statutory deadlines to meet in a number of areas. Therefore, I would appreciate you keeping my officials at MBIE updated on when you expect to start this review.

### **Increasing transparency for market monitoring information requests**

Review Recommendation 22 was to encourage the Commission to further increase transparency when requiring information for market monitoring. This recommendation aligns with Cabinet's agreement to Review Recommendation 21, which proposes legislative

amendments to expressly require that proportionality, transparency, and accountability are applied to telecommunications market monitoring by the Commission.

The review found that, while stakeholders recognise the importance of regulatory oversight in the telecommunications sector, many consider that information requests can impose a disproportionate compliance burden, particularly on smaller providers. Improving clarity around why information is being sought and how it will be used would help address these concerns.

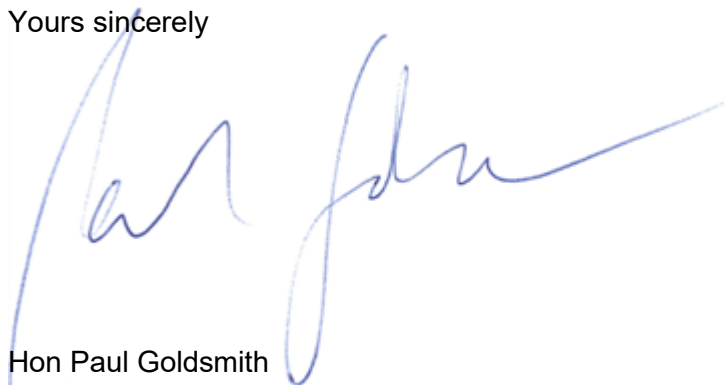
Progressing with implementing Recommendation 22 is an opportunity to make early progress on greater regulatory robustness for such requests for information ahead of legislative change on the issue.

I therefore encourage the Commission to improve transparency around its information requests to the telecommunications industry for monitoring purposes under the Act. I anticipate this would extend to clearly explaining to stakeholders the purpose of the information being requested to support stakeholder understanding and confidence in the regulatory system.

I would welcome an update to MBIE officials on the Commission's intended timeframe for implementing these transparency measures. I also encourage ongoing engagement with MBIE officials as work on Review Recommendation 21 progresses.

Thank you for the Commission's consideration of these matters.

Yours sincerely



Hon Paul Goldsmith  
**Minister for Media and Communications**