

# **Submission**

by

**Business|NZ**

to the

**Commerce Select Committee**

on the

**Telecommunications Bill 2001**

**13 June 2001**

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This submission is presented by Business New Zealand  
incorporating the regional founder members of the organisation and affiliated  
organisations. The organisation represents business and employer interests in all  
matters affecting the business sector.

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## **Members of Business New Zealand**

Apparel & Textile Federation of NZ	NZ Chambers of Commerce & Industry
Aviation Industry Assn of NZ Inc	NZ Fire Equipment Assn
Baking Industry Research Trust	NZ Footwear Assn
Brush Manufacturers Assn of NZ	NZ Institute of Management
Building Service Contractors of NZ	NZ Meat Industry Assn
Bus & Coach Assn NZ Inc	NZ National Flooring Assn Inc
Canterbury Employers' Chamber of Commerce	NZ Nursery & Garden Industry Assn
Canterbury Manufacturers Assn	NZ Orchards & Vineyards Assn of Employers
Casting Technology of NZ Inc	NZ Paint, Ink, Resin & Adhesives Manufacturers Fed
Collision Repair Assn	NZ Painting Contractors Fed
Corporation of Insurance Brokers of NZ Inc	NZ Post Ltd
Electrical Contractors Assn of NZ Inc	NZ Private Hospitals Assn
Employers & Manufacturers Assn (Central)	NZ Private Physiotherapists' Assn
Employers & Manufacturers Assn (Northern)	NZ Retail Meat & Allied Trades' Fed Inc
Federated Farmers of NZ	NZ Seafood Industry Council Ltd
Forest Owners Assn of NZ	NZ Society of Master Plumbers
Furniture Assn of NZ	NZ Stevedoring Employers Assn Inc
Health Funds Assn of NZ	NZ Tanners Assn
Hospitality Assn of NZ	NZ Taxi Federation Inc
Insurance Council of NZ Inc	NZ Vegetable & Potato Growers Fed
Investment Savings & Insurance Assn	Otago-Southland Employers' Assn
Liquid Fertiliser Manufacturers Assn of NZ	Pharmacy Guild of NZ (Inc)
Local Government NZ	Plastics New Zealand
Motor Trade Assn (Inc)	Printing Industries NZ
Nat Assn of Retail Grocers & Supermarkets of NZ Inc	Registered Master Builders' Fed
Newspaper Publishers Assn of NZ	Retail Merchants Assn of NZ
NZ Association of Bakers (Inc)	Road Transport Forum NZ
NZ Carpet Manufacturers Assn	Textile Care Federation of NZ

**TELECOMMUNICATIONS BILL 2001**  
**SUBMISSION BY BUSINESS NEW ZEALAND**  
**13 JUNE 2001**

**1. INTRODUCTION**

- 1.1 Business New Zealand is the leading national organisation representing the interests of New Zealand's business and employing sectors, comprising some 76,000 individual enterprises. Business New Zealand champions policies that would transform and accelerate the growth of high value added goods and services to significantly improve the prosperity of all New Zealanders.
- 1.2 The Telecommunications Bill 2001 ('the Bill') in large part implements the Government's response to the recommendations made by the Ministerial Inquiry into Telecommunications. Although Business New Zealand prefers minimal government intervention in the economy, we recognise that in some cases generic competition law might not be sufficient to provide for free and fair competition and to protect and enhance the consumer interest.
- 1.3 Telecommunications is a dynamic and complex industry where a degree of light handed regulation is justified to ensure that the market works efficiently and in the wider interests of all industry participants and consumers. Therefore, we generally supported the recommendations made by the Ministerial Inquiry and we support the principles contained in this Bill.
- 1.4 Business New Zealand considers, however, that there are some issues that need to be further considered with respect to consumer information and ongoing assessment and review of industry effectiveness and efficiency.

**2. SUPPORT FOR LIGHT HANDED REGULATION**

- 2.1 One of the key Business New Zealand policy principles is efficient government and minimal intervention and compliance costs in the economy. Normally, we would have reservations about industry specific regulation on

the grounds that the operations of a free market, backed up by the generic provisions contained in the Commerce Act 1986, ought to be sufficient.

- 2.2 However, we recognise that there are compelling arguments in favour of the provisions contained in the Bill. For example, it is widely acknowledged that there have been problems with the length, cost and clarity of dispute resolution through the court process that arguably slowed development of effective telecommunications competition in the 1990s. Therefore, although over-regulation usually has a perverse impact on incentives to invest and innovate, a light handed regulatory framework for the telecommunications industry appears to be justified. As we understand it, regulation and price control would be imposed only if these solutions were to fail or if there was a serious issue, which industry members could not effectively address.
- 2.3 On balance, therefore, Business New Zealand supports the principle of light-handed regulation contained in this Bill.

### **3. THE TELECOMMUNICATIONS COMMISSIONER (PART 1)**

- 3.1 Business New Zealand agrees with the establishment of a Telecommunications Commissioner operating within the Commerce Commission (provided for in Part 1 of the Bill). We believe that such a Commissioner would provide the Commerce Commission with critical sectoral expertise in an area of considerable technical complexity.
- 3.2 We believe that it is important to have some caveats in place to stall any process of 'regulatory creep' that might have the potential to manifest itself over time. These caveats should include:
- regular review of the designated issues;
  - time-limits for designation, with renewal periods if necessary (we note that clause 60 of the Bill has a five-year time limit before expiry of services); and that

- the designation of services should remain the Minister of Communication's ultimate responsibility, not the Commissioner's.

3.3 We are not uncomfortable in principle with the industry being levied to pay for the Commissioner, and we believe that such a levy (estimated at \$2.6 million per annum) would be small compared to the large amounts that have been spent in litigation over the past decade. However, Business New Zealand would be concerned were the levy to escalate over time, as contributors would be likely to pass the costs onto their customers. There seems little reason why this levy should not be capped at the current annual estimate until the first review period identified above.

#### **4. DESIGNATED SERVICES AND SPECIFIED SERVICES (PART 2 AND SCHEDULE 1)**

4.1 Business New Zealand is comfortable with there being designated and specified services (provided for in Part 2 of the Bill) and we approve of the list of services that are to be designated (contained in Schedule 1 of the Bill), i.e., interconnection with Telecom's fixed telephone network, wholesaling of Telecom's fixed network services, and number portability.

4.2 We believe that it is particularly important that number portability, including 0800 number portability, be a designated service. Number portability is a key issue for businesses (especially small and start-up businesses) as it is seen as an important factor limiting competition between telecommunications providers. A lack of portability imposes significant costs for businesses wishing to change telecommunications providers, and we are concerned that the existing process for introducing number portability has been too slow. 0800 numbers or their competitive equivalent should be given high priority in view of the high level of resources put into marketing specific 0800 numbers and their high level of consumer awareness.

4.3 We are pleased to see that number portability will be addressed through designation and we will watch developments with close interest.

## **5. TELECOMMUNICATIONS SERVICE OBLIGATIONS (PART 3)**

- 5.1 Business New Zealand supports the provisions for independent costing of Telecommunications Service Obligations (TSOs), such as the Kiwi Share. We also agree with a process being put in place where telecommunications industry players can contribute to TSO net costs in a more transparent and neutral way. We believe that all industry players making use of a network should contribute to TSO net costs, including Internet service providers.
- 5.2 We agree that the content of each TSO should continue to be the subject of negotiation between the Crown and the service provider. We do not consider it necessary, nor desirable, to legislate the content and detail of a TSO.
- 5.3 We note that the Crown and Telecom are renegotiating the existing Kiwi Share Obligations in order to implement further aspects of the Government's response to the Ministerial Inquiry, including the objective to improve Internet access for rural users. However, there are other difficult issues that are of concern to some of our members, namely the Universal Service Obligation (USO) and inflation indexing of line rentals. We do not expect either of these issues to be easily resolved, but they ought to be kept under active consideration.
- 5.4 With regard to the USO, some of our members are concerned about the increasing degree to which they are subsidising other users. They have suggested that the USO should be competitively tendered on a regional basis for specified time periods, and we note that the Government is keeping this option open for the future. With regard to inflation indexing, the concern is that CPI adjustments do not take account of productivity gains from improved technology, so members have suggested that a CPI-X formulation should instead be used for indexing line rentals.

## **6. ADDITIONAL ISSUES FOR CONSIDERATION**

- 6.1 While Business New Zealand supports the principles contained within the Bill, there are two additional areas where we suggest the Commissioner could have a role. These are discussed below.

### **Consumer Information**

- 6.2 One of the key principles of competition is the level of information consumers have on price and the level of services available from competitors. This has become increasingly important in the telecommunications sector relative to other service sectors, with significant competition in tolls and Internet services, and customers considering the relative merits of fixed wire and mobile telephone services, both on-shore and elsewhere.
- 6.3 An important service, which has facilitated choice by customers in the electricity sector, is the consumer information service provided by Internet and phone by the Consumers Institute. The Institute has already produced some information for members on mobile telephone options, but there is a need for more information on service options for residential and small business customers.
- 6.4 We recommend that the Commissioner should assist with the further development of information services for residential and small business customers, along similar lines to that developed for the electricity sector.

### **Ongoing Assessment and Review**

- 6.5 A major flaw in the implementation of reforms over the past 15 years has been the lack of investment in the assessment of changes made. There is very little information available on how the price of telecommunications services has changed in response to regulatory changes and the introduction of competition for services.

6.6 In contrast, the Australian Productivity Commission has prepared a number of comprehensive reviews of the telecommunications sector and has benchmarked the efficiency of the Australian sector against a number of other countries, including New Zealand.

6.7 In our view, there is clearly a need for much more regular and comprehensive analysis of the telecommunications industry. We believe that it would be cost effective for such analyses to be prepared cooperatively with the Australian Productivity Commission, allowing the New Zealand Commissioner to draw on the international benchmarks developed in Australia, while comparing the impacts of the different regulatory structures in Australia and New Zealand.

## **7. RECOMMENDATIONS**

7.1 Business New Zealand supports the provisions contained within the Telecommunications Bill 2001. We therefore recommend that the Bill should proceed.

7.2 We also recommend that:

### *Telecommunications Commissioner*

(a) Caveats should be put in place to stall the process of 'regulatory creep', including:

- regular review of the designated issues;
- time-limits for designation, with renewal periods if necessary; and that
- the designation of services should remain the Minister of Communication's ultimate responsibility, not the Commissioner's.



- (b) The cost of the Telecommunications Commissioner should be recovered by way of an industry levy which is capped at \$2.6 million per annum until the first review period after five years;

#### *Designated Services*

- (c) Interconnection with Telecom's fixed telephone network, wholesaling of Telecom's fixed network services, and number portability should all be designated services;

#### *Telecommunications Service Obligations*

- (d) All industry members should contribute to Telecommunications Service Obligation net costs, including Internet service providers;
- (e) The Universal Service Obligation should be tendered out on a regional basis for specified time periods;
- (f) A CPI-X formulation should be used for the price indexing of line rentals;

#### *Additional Issues*

- (g) The Telecommunications Commissioner should facilitate the development of an information service for small commercial and residential customers; and
- (h) The Telecommunications Commissioner should conduct ongoing assessment and review of the efficiency and effectiveness of the telecommunications industry.