

Broadband: Adding Solutions Not Problems

Background:

This submission is made jointly by Alan Marston and Thomas Lee who are principals of the following companies: Alan Marston - Commspace, KC Internet and Pl.Net; Thomas Lee – WorldNet, Commspace and LinkTel.

We submit that the current telecommunications law and policy framework has not, at any level, fostered sufficient levels of new entry, enhanced competition, and innovation in the local telecom market, especially in respect of Broadband. The continuing dominance of incumbent local exchange carriers, predominantly Telecom (but also TelstraClear and Vodafone) in NZ (and international) market(s) impedes the healthy, and much-needed, universally understood development of an efficient broadband market.

The result of past policy and market failures is inadequate technological progress, limited innovation and productivity in advanced Internet services and telecommunication services generally. In short, the potential solution to many socio-economic problems - advanced telecommunications - is the actual problem. All this we believe is uncontentious.

In response to the above negatives, the Government is seeking positive outcomes at two levels:

1. *Processes* focusing on *how to facilitate* commercial solutions;
2. Promoting *commercial solutions*.

The submitters believe that 2. is almost totally contingent on 1. For that reason the following submission addresses level 1.

The Government has already put forward its proposals in respect of 1, the Broadband Investment Fund, which we respectfully contend is conservative and - far from providing solutions - potentially creates more problems.

Fundamentally, this submission addresses what we believe are the problems in the Government's Broadband Investment Fund proposals that mirror the problematic nature of the telecom industry in NZ, and suggest alternatives.

Problem: Pandering to ILECs

It is axiomatic that if markets are to be the level playing field that facilitate the efficient pricing and delivery of valued services to consumers - a position long endorsed by successive New Zealand Governments - then it is fundamental that all the players need to be subject to equal treatment under a uniform set of rules if the

`best' are to win. To effect this axiom in the telecom industry in NZ the Government must act as the circuit breaker to break the ingrained attitude that “might is right” and establish a new set of rules that can be succinctly worded and enshrines the principle that *the customer is right*. That change we submit is essential to progress and requires the Government's Broadband Investment Fund (BIF) be amended along the following lines:

- (i) A change from dis-ease of access to the BIF to ease.

The BIF has the full range of hurdles associated with large institutions seeking to maintain their power and which implicitly discriminate against smaller and nimble innovators seeking entry to the market place. Namely legalese, indecipherable acronyms, demands for lengthy minutely-detailed multiple applications, philosophical assumptions held by conservatives but not held by innovators and, most discriminatory of all, high costs. The industry continues to suffer from the legacy of delay, obfuscation and confusion actively promoted by the large telecom industry players. Smaller operators in the telecom industry seek a fair opportunity to succeed in the market place without the full range of obstacles outlined above.

We submit that the BIF be edited and amended to state that the Government has set aside \$X in Y categories for allocation over Z time period to achieve ABC goals and that any commercially viable application from an existing company registered in New Zealand to extend the interconnected ethernet over fibre-optical and/or wireless network that matches ABC and achieves its stated commission time and quality of service will qualify for Z% subsidy. Where two or more applicants exist for the same network extension, a cost-benefit analysis will be conducted by Government to determine the successful applicant.

- (ii) Decisions about markets be made by markets.

The BIF gives the Government decision-making powers: that doesn't work and is inconsistent with the stated framework and discussion of markets. It is not the role of Governments to make commercial decisions for and on behalf of whole industries.

We submit that the terms of reference parameters of the BIF be edited and amended so as to allow customers to decide on the merits of a network. That this can be achieved by Government implementing recommendations in (i) and where a successful applicants' network is not implemented or is implemented but turns out to be a commercial failure, it can be sold at auction – as would any other failed business

Conservation and preservation of our natural and social heritage is a noble role of the Government. However, the same does not apply to technology, where innovation and

the market place rules. The submitters humbly request that the BIF be re-written to re-position the role of the Government in accord with the above.

Yours sincerely,

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