

TO: THE FINANCE AND EXPENDITURE COMMITTEE

SUBMISSION ON THE TELECOMMUNICATIONS AMENDMENT BILL BY INTERNET SERVICE PROVIDERS ASSOCIATION OF NEW ZEALAND (ISPANZ)

Background information

1. This submission on the Telecommunications Amendment Bill (“the Bill”) is made by the Internet Service Providers Association of New Zealand (“ISPANZ”).
2. ISPANZ is a non profit industry group that represents most Internet Service Providers operating in New Zealand. Our membership includes all the major ISPs except Telecom Xtra; plus a broad range of medium and small ISPs. We exist to promote a fair and fully competitive Internet marketplace where our members can deliver the full benefits of the Internet to the New Zealand public and our economy. Our primary goals are to:
 - improve New Zealand’s poor International ranking for broadband uptake
 - enable New Zealand businesses to become more competitive internationally through use of Internet enabled technology
 - improve Internet pricing and services for ordinary Kiwis
 - enable New Zealand to reap significant economic benefits as it becomes a broadband enabled society.
3. ISPANZ wishes to speak to the Committee in support of its submission. ISPANZ can be contacted through its President, David Diprose, as follows:

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Our view

4. ISPANZ believes that the enactment of the Bill is essential to ensure that New Zealanders receive Internet services on the best possible basis. We consider that the present legislative framework is inadequate and is causing unsatisfactory outcomes for consumers.
5. While we would hope that the prevailing view is that it is necessary to change the telecommunications legislative environment in the manner contemplated by the Bill, we wish to give some examples which highlight why such change is absolutely essential from the perspective of ISPs. In our view the Bill will address significant legislative shortcomings in the following areas:
 - (a) At present ISPs are essentially limited to reselling the broadband service offered by Telecom. The proposed unbundling of Telecom’s network will allow ISPs to offer a greater variety of services and service options and a greater ability to compete with Telecom. This will benefit New Zealand consumers.

- (b) The current regulated upstream throughput rate for internet access is limited to 128 kbps (kilobits per second). Telecom is under no obligation to provide faster upstream speeds, even though it offers faster speeds to its customers. As the regime stands at the moment Telecom can offer retail services and service levels which differ from those it offers on a wholesale basis. The proposed Unconstrained Bitstream Service will give other ISPs the opportunity to offer services with higher upstream and downstream throughput rates.
 - (c) At present determinations apply only to the parties to the determination. Telecom will at times flow through the benefits of a determination to other industry participants. However it will often delay doing so and/or will use its commercial leverage to require other benefits as a condition of doing so. This in turn lessens the ability of ISPs to compete. Telecom's ability to act in this manner will be reduced dramatically by the enactment of the provisions in the bill relating to Standard Terms Determinations.
6. We believe that the combined effect of rectifying these issues (and other less significant issues) will be to improve the variety of Internet services available, increase access speeds and reduce prices. This will benefit all New Zealand consumers and will result in significantly increased broadband uptake.

Suggestions for improving the Bill

7. While ISPANZ strongly supports the Bill, we believe there are some improvements which could be made to it. In this regard we endorse the submissions which InternetNZ is making to this Committee. (We have worked closely with InternetNZ in the preparation of our respective submissions, since both organisations have very limited resources.)
8. While we agree are in overall agreement with InternetNZ's submissions, we particularly wish to record our view that there must be a robust regime for the separation of Telecom's business. Overseas experience shows that the initiatives in the Bill, while being a vast improvement on the current regime, will not be sufficient to address the present market failure. Accounting separation has proved to be insufficient in other jurisdictions – notably the United Kingdom.

Summary

9. In summary therefore, ISPANZ:
- (a) supports the Bill, and hopes that it is enacted at the earliest possible date;
 - (b) believes some improvements could be made to the Bill, and endorses the submission to be made to the Committee by InternetNZ;
 - (c) particularly wishes to see the Bill amended to provide for the structural separation of Telecom.