

TUANZ Telecommunications Day 2007

30 May 2007

Presentation by Merv Altmants – Chair of Telecommunications Users' Association of New Zealand (TUANZ)

Earlier this week I watched my predecessor's (Graeme Osborne's) presentation to Telco Day last year entitled "A Vision for the Future" in which he explained the rationale behind the TUANZ Mission statement – Top Ten in the OECD for ICT – and the way in which TUANZ supported this goal by –

- Promoting competition to drive connectedness
- Communicating the vision of a broadband – enabled New Zealand
- Contributing to technology and associated skills enhancement and professional development.

He then went on to outline a number of important principles which were enunciated as follows

- Fixed lines will continue to out perform wireless solutions for the mass market – some may challenge this
- Competitive markets drive innovation and choice of products and services
- Communities, specialist businesses and pension funds are the best investors and owners of infrastructure
- Network Neutral or Open Access Networks are important solutions for communities especially where commercial models are not active
- Success of Local Loop unbundling will be based on price and ease of implementation – Commission and Telecom need to get this right
- People need to be educated.....

With the benefit of hindsight these principles are still as relevant today as they were 12 months ago. Certainly the deliberations of the TUANZ Board on a whole range of policy issues over the last 12 months (and believe me there have been not only many but they have been among the most complex and important our organisation has grappled with for some years) have been consistent with these principles.

As a strong and effective advocate of user interests, our views have often been aligned with others in the industry, be they telcos, ISPs, ICT suppliers, the Commissioner and the Government but when we believe that users' interests are best achieved by a different approach

or policy we are not afraid to advocate strongly on behalf of our 500 plus members and ensure that their voice is not drowned out in the industry noise.

I want to spend some time walking you through one such issue where we are seen as having a different viewpoint to most of the industry – our cross submission on Telecoms proposal on structural separation.

You will all recall that Government through the Ministry of Economic Development (MED) released a consultation paper on the development of requirements for the operational separation of Telecom. In responding to this paper TUANZ stated that “TUANZ has strongly supported the development of a regulatory framework for

operational separation in preference to **compulsory** structural separation of Telecom's core infrastructure assets". We see the government proposal as perfectly workable and consistent with the successful British Telecom (BT) precedent.

I want you to all be very aware that our Chief Executive has been very active in keeping a close watch on the BT model as implementation proceeds and is regularly in contact both at a distance and face to face with a number of the parties involved as well as getting user perspectives, which is after all where the proof of the pudding lies. I say this to show that we are an organisation that is not afraid of doing the hard yards to get first hand information to the nub of an issue.

Telecom did not critique this paper in the way that the rest of the industry did and in fact announced that they felt the Ministry's model was unworkable. Their reasoning behind this statement is not clear. Instead they put forward a counter proposal offering a voluntary structural separation option with minimal apparent reference to the substance of the MED paper. This was definitely an opportunity missed.

Nevertheless, when TUANZ was given the opportunity to comment on Telecom's counter proposal. We took that opportunity to provide a submission on this proposal as well.

We have strongly encouraged the Government to continue to negotiate with Telecom for a voluntary structural separation in a form that dovetails with the mandatory operational separation required under the Telecommunications Act with regard to the Ministry's detailed proposals.

While there are a number of elements within Telecom's proposal with which TUANZ would have an issue, we nevertheless believe that a transparent dialogue between government and Telecom to resolve key sticking points would have the potential to deliver better long-term outcomes for end-users than the mandatory operational separation proposals alone.

In our submission our general response, which succinctly summarised the TUANZ point of view, states the following:

1. TUANZ strongly encourages the negotiation of a voluntary structural separation of Telecom assets in order to reduce complexities and ongoing compliance costs associated with operational separation. A Netco structurally separated from Telecom's competitive businesses should be attractive to patient, long-term investors (such as pension funds) seeking a utility-grade investment with low risk. On the other hand, in setting conditions for establishment of such an entity, the government needs to learn from bad experience with previous infrastructure privatization, such as the catastrophic under-investment in the private railway infrastructure. Netco should not be set up with a high risk of failure.

2. Telecom's offer to structurally separate seems to be conditional on a number of important matters that should not be conceded without serious review. Precise terms of the separation, and in particular the extent and manner of regulation applied to continuing wholesale services, will need very careful scrutiny and consultation if the benefits are to be real and enduring.

3. Since Telecom's structural separation option proposal requires significant legal and policy clarification before it could be implemented, and would in any case not cover all aspects of the Government's Operational Separation Plan as provided in current legislation, we recognize that the Operational Separation Plan development process should continue.

It is hard to see how an unwilling Telecom, where ongoing and costly regulation could become a necessity, is better than a willing one ready to compete strongly for the customer dollar. Clearly, as stated in the first point above, operational separation still leaves a company with shareholders with expectations of a certain return on all assets owned by the company that may be different from the expectations of two different companies.

On the one hand there is the expectation from shareholders of high short term returns on any investments made, as in the current model, and the longer term returns that would normally be expected in strategic infrastructural assets such as roads, water and electricity under a different ownership model. While it is possible to regulate

anything one has to ask the question why would one want to if a better model was possible. In the end a meeting of minds between the government and Telecom may not be possible but given what is at stake, all we are asking is that the two parties sit down and seriously work together to ascertain what is possible without all the conditions and potential fishhooks in the Telecom proposal.

A strong motivated access network company could be an asset to the country as would be the case with a motivated Telecom focusing solely on delivering competitive service offerings (be they wholesale or retail). One gets the feeling that a number of players in the industry would be uncomfortable if monopoly profits resulting from vertical integration were no longer as easy to come by.

Who should own such an access network? TUANZ would be 'uncomfortable' if the Government were to buy back the access network. Whatever the outcome, we would like to see it discussed openly by the industry and the public. Certainly when it comes to fibre rollout a number of local authorities, with support from Broadband Challenge funding have lost patience with the procrastination from the industry over this issue and have, or are about to take action themselves to ensure their communities do not continue to be disadvantaged any longer. However when it comes to a national network we are talking about a much more complex (and costly) beast.

So to summarise the main points of our stance on separation

- Government should proceed with its operational separation work, while at the same time fleshing out how a voluntary structural separation model could fit with this.
- Telecom's offer notwithstanding, TUANZ sees the Government proposal as perfectly workable and consistent with the BT precedent. Telecom missed a great opportunity to critique this proposal.
- We see a future that is inclusive of Telecom's proposal as doing far more for NZ than an ongoing potentially antagonistic relationship between Telecom and the Government.

- The process going forward, insofar as is possible needs to be transparent and inclusive. The Government needs to ensure that whatever resources are required for a speedy outcome are made available and delays are avoided. TUANZ is certainly keen to be part of this and has made it clear to all parties that we are willing and able to help.
- Finally I leave you with the question - What happens if Telecom decides that the regulated proposal is unworkable (as it has already stated) and decides to unilaterally divest the access network? What an opportunity missed if that were to happen.

I would now like to briefly touch on a couple of other issues which I expect will occupy some of TUANZ's time and resources over the next 12 months.

Recently the EU announced that international mobile voice roaming charges across Europe are to be regulated, reducing the present charges to consumers in many cases by 70% and more. The changes still need to be approved by the member governments of the 27-nation bloc, although these approvals are considered a formality. At this stage texting and data roaming are not covered and the regulations do not extend beyond the EU but if nothing else it has had the effect of exposing the prices for what they are. One member of the European Parliament (Fiona Hall) said the new law would protect

consumers from "abusive charges" that bore no relation to phone operators' costs. That this has been allowed to continue for as long as it has says much about the market power of the companies involved and has strong similarities to the bad old days when international calling margins were astronomical. It will undoubtedly impact roaming charges in other countries over time. The sooner it happens the better for users and the country. Whenever TUANZ has raised this matter it has always been "the others" that have set the price and "we just pass it on". Talk about confusing the customer!

While other countries have moved to reduce the cost of mobile calls to manageable proportions and in a number of cases to being competitive with landline costs (less than 3 cents per minute) New

Zealand continues to languish at the bottom of the OECD list and in fact is more expensive than most third world countries as well. While a number of components make up the cost of a mobile call, one of the more significant ones, apart from the profit margin in those instances where competition is weak or effectively doesn't exist, is the termination cost applied by the mobile companies. After 2 determinations by the Telecommunications Commissioner and after 12 months of discussions to which the public were not privy we suddenly had an announcement that over 5 years the rates would be reduced to a figure that is already higher than it is a number of overseas countries. And it has been presented to us as a great deal for the user.

By now you will be well aware that TUANZ does not buy this and believes that the era of internationally competitive mobile calls may have just slipped back by at least 5 years. And it could have been avoided if the process had allowed for public input in clarifying whether the rates offered were reasonable.

However we are a bunch of optimists and are therefore looking forward to the outcomes of the mobile stocktake process currently underway. It will be interesting to see how this process will deliver internationally competitive rates when we are already starting from a handicap of high termination rates, apparently fixed for 5 years.

Finally I want to touch on the question of data caps and some of the associated issues. As commerce and information exchange come to rely more and more on the Internet, and true broadband speeds become more achievable, data caps have the potential to become a constraining factor on our economic growth. Elsewhere this outmoded concept has been discarded and the resultant effects have been immediate. While larger businesses are in a strong position to negotiate prices related to real costs this is not the case with smaller businesses and the wider public.

While Telecom's GoLarge Plan effectively fell over, this did more to highlight the lack of infrastructure investment over many years rather than a problem with the plan itself. The concept of a flat rate

uncapped plan is now the accepted norm in most OECD countries and as such the Plan was what could be expected in a modern economy. 60,000 people, who signed up to the plan thought it was a great idea as well!

We never heard (prior to the launch of the plan) that the local network may not be able to handle this success but we did hear a lot about the old chestnut of the cost of international connectivity.

Certainly to date the impression is that, in relation to international connectivity, this is a case of a price being set because it can be - rather than being related to the actual cost of delivering such a service. I understand that to date capacity has not been an issue.

Compounding this problem is the fact that with the significant issues around peering costs in this country we are having the ridiculous situation in some instances of sending traffic to addresses across the street via overseas peering exchanges.

Even if this was considered a reason for data caps, and I for one don't accept it as an insurmountable obstacle, how can one argue that national traffic should also be capped. And before someone says that there are difficulties in measuring this, at least one company and probably more were doing just that until June of last year. So it can and has been done, apparently cost effectively.

Data caps are an anachronism in a modern economy and the industry needs to find ways to move us into the 21st century. Get together and sort it out sooner rather than later and give customers a better, more cost effective way of connecting electronically in commerce, education, socially and in play.

I want to finish on a positive note and congratulate the industry, and all those who worked so hard, on the roll out of number portability.

Thank you.