

Departmental Disclosure Statement

Telecommunications and Other Matters Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Ministry of Business, Innovation and Employment.

The Ministry of Business, Innovation and Employment certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

8 October 2025

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Part One: General Policy Statement

The Bill is an omnibus Bill introduced in accordance with Standing Order 267(1)(a), which permits an omnibus Bill to amend more than one Act if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy.

The Bill amends the Telecommunications Act 2001, the Telecommunications (Interception Capability and Security) Act 2013 (the **TICSA**), and the Radiocommunications Act 1989.

The single broad policy implemented by the amendments in this Bill is to ensure that overseas telecommunications providers are explicitly subject to relevant obligations in the telecommunications regulatory regime, where appropriate, and create a mechanism to address non-compliance with those obligations.

Telecommunications legislation has largely been silent on the extra-territorial effect of obligations in the Telecommunications Act 2001 and the TICSA. As the technology and markets underpinning telecommunications evolve, it is expected that more telecommunications services will be delivered to New Zealand consumers by providers that are based partially or fully overseas.

The Bill seeks to create an explicit extra-territorial effect for parts of the telecommunications regime. This will ensure that all telecommunications providers offering services to consumers in New Zealand are subject to relevant telecommunications regulatory obligations regardless of whether they, or the infrastructure they rely on, are based in New Zealand or overseas. This Bill does not limit extra-territorial effect that arises by necessary implication.

This Bill will ensure overseas telecommunications providers are subject to the following specific regulatory obligations:

- provisions in the Telecommunications Act 2001 relating to the telecommunications development levy and the levy used to pay regulatory costs:
- Part 7 of the Telecommunications Act 2001, relating to the provision of services by retail service providers to New Zealand consumers:
- regulations made under Part 5 of the Telecommunications Act 2001 where applicable to the services the providers are offering. For example, Part 5 provides for the making of regulations setting out minimum requirements for emergency call services. If the Minister seeks regulations of this nature, it will be appropriate that all telecommunications providers that offer telecommunications services that can be used to make emergency calls are within scope of the regulations:
- provisions in Part 2 of the Telecommunications Act 2001, where the service provided by the overseas provider is made a designated or specified service under Schedule 1 of that Act, or the provider is considered an access seeker or access provider:
- obligations for network operators and service providers in the TICSA by clarifying that both groups can be based in New Zealand or overseas.

The Bill also seeks to introduce an associated enforcement mechanism for breaches of legislation, so that radio and spectrum licences may be revoked, suspended, or restricted (if held by someone other than the breaching party) if existing enforcement mechanisms in the Acts (for example, court orders or penalties) are impracticable.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>The regulatory impact statement 'Improving telecommunications regulatory and funding frameworks' was developed by officials at the Ministry of Business, Innovation and Employment (MBIE). It was finalised on 20 November 2024.</p> <p>The regulatory impact statement can be accessed here: https://www.mbie.govt.nz/dmsdocument/30533-regulatory-impact-statement-improving-telecommunications-regulatory-and-funding-frameworks-proactiverelase-pdf</p>	

2.3.1. If so, did the RIA Team in the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
<p>The RIS did not meet the threshold for RIA team assessment. The MBIE Regulatory Impact Analysis Review Panel reviewed the Regulatory Impact Statement. The panel considers that it meets the quality assurance criteria.</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>The size of potential costs and benefits, and impacts on particular groups or stakeholders are available in the regulatory impact statement located here: https://www.mbie.govt.nz/dmsdocument/30533-regulatory-impact-statement-improving-telecommunications-regulatory-and-funding-frameworks-proactiverelase-pdf</p> <p>We did not undertake specific analysis of the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth, but in our assessment of the costs and benefits we did not identify that this would be a likely cost resulting from the policy proposals.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The Bill makes explicit that offshore providers are subject to certain obligations in telecommunications legislation (in the Telecommunications Act and TICSAs). The benefit of this effect is likely to be impacted by the level of effective compliance with these obligations.</p> <p>The Bill also creates an enforcement regime for certain breaches of telecommunications legislation in the Radiocommunications Act 1989, acknowledging that existing enforcement mechanisms (for example, infringement fines, notices, or New Zealand courts) may be impracticable if offshore providers choose not to comply. This means that radio licences and certain spectrum licences may be revoked or restricted as enforcement, after existing enforcement mechanisms have been explored and practical difficulties identified. However, there may still be some instances where the enforcement mechanism is not able to sufficiently address non-compliance, for example, if the provider is using unlicensed spectrum or spectrum inside privately managed rights.</p> <p>The benefits will require effort from the regulator to secure compliance (for example, serving breach notices, taking the party to Court, or seeking a decision from the Secretary of MBIE to revoke or restrict the licence), particularly in a situation where the non-compliant service provider is non-responsive to initial compliance action.</p> <p>Discussion about the costs and benefits of the policy are included in Section 2 of the Regulatory Impact Statement, and discussion on the implementation of an enforcement regime was included in Section 3: https://www.mbie.govt.nz/dmsdocument/30533-regulatory-impact-statement-improving-telecommunications-regulatory-and-funding-frameworks-proactiverelase-pdf</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

The policy to be given effect by the Bill is consistent with the existing telecommunications regulatory regime, which in turn is consistent with New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

MBIE did not identify any inconsistency with the rights and interests of Māori protected by the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

A copy of the advice will be available at <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice/>.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

While this Bill does not create, amend, or remove any offences or penalties, it does expand the group of telecommunications providers that are captured by certain obligations, and therefore expands the group that would be captured by existing offences and penalties.

The Bill provides a new mechanism to enforce existing telecommunications obligations, empowering the Secretary of MBIE to revoke or restrict certain radio and spectrum licences that a non-compliant provider might hold or otherwise rely on.

3.4.1. Was the Ministry of Justice consulted about these provisions?

YES

The Ministry of Justice was consulted at the policy development stage from a human rights, offence and penalty perspective. The Ministry did not have any comment on these provisions.

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

The Bill introduces a new subpart in the Radiocommunications Act that expressly authorises information sharing to support the Secretary of MBIE to perform new functions relating to the restriction or revocation of certain radio spectrum licences for non-complaint telecommunications providers. Nothing in the Bill authorises personal information to be disclosed in circumstances beyond those in privacy principle 11 set out in section 22 of the Privacy Act 2020.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?

YES

MBIE released a public discussion document in May 2024. It is available here: <https://www.mbie.govt.nz/dmsdocument/28314-enhancing-telecommunications-regulatory-and-funding-frameworks-discussion-document-pdf>. In this document, MBIE consulted on expanding telecommunications levy liability to capture satellite providers and in the future, capturing other categories of providers via regulations. The discussion document also noted that MBIE was considering the impact of these types of providers on consumer access to dispute resolution. MBIE did not publicly consult on creating an extra-territorial effect in certain parts of the Telecommunications Act and TICSA. MBIE considers the information gained through consultation regarding expansion of levy liability to offshore providers sufficiently informed the analysis of expanding the extra-territorial effect of telecommunications legislation.

MBIE tested the proposed enforcement regime with two telecommunications providers that are partially or fully based offshore (Starlink and Amazon Kuiper) following the public discussion document process. Feedback from this process was ultimately that the regime was not developed enough to comment on.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?

YES

MBIE sought feedback from the Legislation Design and Advisory Committee early in the development of the policy which this Bill gives effect to. Feedback on the policy at that stage was incorporated into the policy proposals that Cabinet agreed to.

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
The Bill creates a new power for the MBIE Secretary to revoke or restrict radio spectrum licences. This power may be used after existing enforcement mechanisms have been explored and found to be impracticable. Before exercising this new power, the Secretary must consider certain matters set out in the Bill, including the nature and extent of non-compliance and the effect of the proposed exercise of power on persons who are likely to be affected.	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
The Bill creates an explicit extra-territorial effect, however, MBIE considers it is in line with the Legislation Advisory Committee Guidelines because only conduct inside New Zealand (ie, where the network or service is provided to end-users in New Zealand) is subject to the obligations.	