

Submission from
The Internet Service Providers Association of New Zealand Inc
(ISPANZ)
for the Economic Development, Science and Innovation Committee
on
The Telecommunications and Other Matters Amendment Bill
12th January 2026

ISPANZ is the industry organisation representing internet service providers (ISPs). Our membership consists of a wide range of ISPs, ranging from large entities such as Mercury, through medium sized operators to small ISPs serving specialist or local markets.

We note that the Explanatory Note to this Bill states, in part:

“The High Court decision of Commerce Commission v Kordia Group Limited [2021] NZHC 2777 found that an operator of a satellite positioned outside New Zealand, transmitting a signal from it via radio waves into New Zealand for receipt by persons in New Zealand, is not providing a “telecommunications service” in New Zealand for the purposes of the 2001 Act. This answer assumed that the satellite operator’s only involvement in the transmission of the signal for receipt by persons in New Zealand occurs on the satellite. This cast doubt on

obligations in Part 3 of the 2001 Act to pay the telecommunications development levy and telecommunications “regulatory” levy (because they apply to a liable person, which is defined in section 5 of the 2001 Act as a person who provides a telecommunication service in New Zealand by means of some component of a public telecommunications network that is operated by the person).”

In a submission that we made to MBIE in June 2024 we stated:

“Currently you have excluded satellite operators from being Liable Persons under the Act, citing *Commerce Commission v Kordia*, CIV 2020-485-748 [2021] NZHC 2777 at [88]-[108] to support that. ISPANZ believes that your interpretation is incorrect because *Commerce Commission v Kordia* was a judgement relating to a very specific and narrow set of circumstances. These circumstances do not apply to satellite telecommunications services of a type not referenced in the judgement and which did not exist at the time of that judgement.”

Subsequently, satellite providers have been included in the telecommunications development levy regime. We believe that referencing *Commerce Commission v Kordia* in this Bill’s Explanatory Notes is unnecessary as that judgement was very restricted in its findings and clearly did not apply to telecommunications services provided by satellite.

Satellite transmitted data is widely used in New Zealand for non-telecommunications services purposes, for example the GPS functionality found in every smartphone. The Radiocommunications Act, the Telecommunications Act and TICSA need to be clearly worded to just cover the

relevant radio spectrum matters and telecommunications services, whilst unambiguously covering overseas service providers.

Our members support this Bill.

END