

# INFOTECH

## Reynolds' UFB letter still too sensitive to release

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A SECRET letter written by Telecom chief executive Paul Reynolds to Communications Minister Steven Joyce two years ago on the ultrafast broadband initiative remains so sensitive that it may never be released while the pair are in their current jobs.

Government officials revealed the existence of the August 5, 2009, letter after it was captured by an Official Information Act request from *The Dominion Post* seeking documents relating to the Government's \$1.5 billion scheme.

The letter was penned less than three months after Reynolds decided the ultrafast broadband (UFB) plan as a "starter-for-10" initiative and may include criticisms of the scheme.

Joyce refused to release it, along with a batch of other documents, prompting a complaint from the newspaper and a one-and-a-half-year investigation by the Office of the Ombudsman. Telecom gradually performed an about-face on UFB, before revealing in April 2010 that it was prepared to consider splitting into two separate companies in order to partner with the Government on the scheme.

Ombudsman David McGee said he had seen the letter and discussed its contents with the Government and Telecom as part



**Touchy subject:** Communications Minister Steven Joyce, right, says the contents of a letter from Telecom CEO Paul Reynolds, left, could damage his dealings with Telecom if made public. Photo: JOHN SELKIRK

of his investigation. He said in a provisional ruling mailed to the newspaper that Joyce had advised him the release of the letter would lead to the free and frank expression of opinion between

himself and Telecom being "jeopardised to the extent that it would not be possible for him to engage directly with Telecom on significant matters".

McGee accepted Joyce's pos-

sition. "It is not possible for me to provide a fuller explanation of why the release of the information in the letter would be likely to create the predicted harm," McGee said.

That remained the case, even though Telecom has since won the contract to build the bulk of the UFB network. McGee said he had considered whether the grounds for withholding the letter no longer applied. "At this point, the minister considers that the subject of the letter is a matter that remains relevant to the ongoing relationship between the minister and Telecom and withholding remains necessary."

Joyce reconsidered and released other documents last year that were also subject to the Ombudsman's investigation. They included advice from the Treasury on the UFB scheme and the Cabinet paper supporting the investment.

A final ruling by the Ombudsman on that complaint said Joyce had been wrong not to release the Treasury advice when it was initially withheld from *The Dominion Post* in November 2009.

Joyce had feared the advice - which argued UFB network operators should only be able to sell access to "dark fibre" and not internet connectivity - might be used to "drive a wedge" between ministers and officials and undermine their negotiating position.

But McGee said the Cabinet had already finalised its policy when it first declined to provide the advice.