



31 August 2018

Robin Meaclem
Commerce commission
Regulation.branch@comcom.govt.nz

By Email Only

Dear Robin

Thank you for the opportunity to provide this cross-submission on the proposed change to the definition of 'Network' in the Deeds of Open Access Undertakings for Fibre Services (the Deeds) between the Local Fibre Companies (LFCs) and the Crown.

Spark's submission raises a number of legitimate concerns that we share. While in principle we support aligning the requirements on the LFC with the Telecommunications Act 2001, in this case there is a risk of unintended consequences. This is compounded by the fact that we are entering a time of considerable uncertainty as the oversight of the UFB network moves from Crown Infrastructure Partners to the Commerce Commission.

We therefore recommend retaining the current definition. This is a proportionate and low cost response given that the LFCs have not been able to identify any specific problems the current definition creates for them. If in the future the LFCs have a specific problem that arises specific solutions can be considered.

If you do decide to change the definition it is important that the Commission make a number of clarifications, including:

- That the change has no impact on the non-discrimination obligations currently placed on the Direct Fibre Access Service (DFAS), or any other service used for the purposes of mobile backhaul. The definition of a 'fibre-to-the-premise access network' in the Act defines an end point as "an end-users premise or building". It should be clarified that any part of a mobile network meets the definition of a 'building'.
- That all obligations in the Deeds continue to apply to all aspects of FTTP services (including the layer 1 unbundled service), right up to the designated hand-over points. As highlighted by Spark, the LFCs continue to hold strong market power over the inter-exchange links necessary to reach the hand-over points.

Vodafone New Zealand Limited



- That the change has no material impact on the non-discrimination or equivalence obligations as they currently stand.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Chris Abbott', is written over the typed name.

Chris Abbott
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