

Submission in response to the Commerce Commission's Draft report on deregulating Spark's resale voice services

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MORE THAN

100,000

KIWIS

HAVE TAKEN ADVANTAGE OF
BETTER BROADBAND
OVER THE LAST YEAR

SUBMISSION

This is Chorus' submission on the Commerce Commission's *Draft report on whether Spark's Resale Voice Services should be omitted from Schedule 1 of the Telecommunications Act 2001*.

From a market perspective, it is important to have timely and robust reviews of whether regulation is still needed. This is the first time since the Telecommunications Act was implemented in 2001 that there has been a proposal to remove a regulated service from the Act. Given the significant industry, technological and regulatory changes and the cost of regulation, we support this review as well as the broader policy review of the regulatory framework that is underway.

The Commission's draft decision proposes deregulation of Spark's resale services. While the regulation of these services do not directly impact us, we have provided some brief comments on the proposed approach to assessing the threshold for deregulation.

We also note that if retail service providers choose to move away from Spark's resold POTS service to baseband IP, that good forecasting and planning will be important.

Competition test and efficiency

We broadly support the approach the Commission has taken to assessing whether there are grounds for deregulating Spark's resale services. While we haven't assessed the full detail of the Commission's approach, we make a small number of observations.

The Commission's view is that where there is one competitive alternative to Spark's resale service, this is sufficient competition to justify deregulation. We support the fact that one alternative provider is sufficient. This is consistent with our view on the Commission's backhaul market review, and we refer the Commission to our previous submissions on this.

We support the Commission undertaking a cost benefit analysis when deciding whether the regulation continues to be justified. The costs of regulation in the absence of pro-competitive benefits from regulation is an important consideration. However, we don't support the Commission's consumer welfare rather than total welfare approach to section 18. Consistent with our submissions during the FPP process¹, our view is section 18 requires the Commission to apply a total welfare standard. A total welfare standard best secures the long term benefit of end-users by ensuring providers of services are appropriately incentivised to invest and innovate.

In relation to the role of fixed wireless in the Commission's market assessment, the Commission takes the view that FWA will provide a competitive voice service at about

¹ Chorus submission in response to the Commission's Draft Pricing Review Determinations for Chorus' Unbundled Copper Local Loop and Unbundled Bitstream Access Services (2 July 2015), 240-244.

2% of end user locations. The Commission concluded in the FPP process that only around 1% of lines would be served with fixed wireless when cost and quality considerations were taken into account. For the reasons we set out in our submissions on the FPP process, our view is that fixed wireless is only likely to be relevant on the edges of the network, and is unlikely to be a competitive constraint – except potentially to the extent that open access wholesale fixed wireless products are available.

Migration off resold POTS

Our baseband IP service is an important wholesale substitute for resold POTS given its availability to almost all New Zealanders. There are already around 9,000 customers with a voice line provided over our baseband IP service.

As the Commission notes, if resold POTS is deregulated, and RSPs are not happy with the service provided by Spark, they have the option to migrate to our baseband IP service. If this were to occur, we would want any transition to be smooth.

We have a number of initiatives in place to support any transition. These include pre-provisioning of baseband IP cards, and new systems to streamline the ordering process from a manual to an automated process for those on correct cards (available from September 2017). However, as most migrations currently require a technician visit to a cabinet, any significant migration will need to be well planned, including good forecasts to manage any resource contention. We would look to work closely with individual RSPs on this.