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Dear Simon

### **Specified points of interconnect consultation**

1. The Commission's points of interconnect submission notes the requirement under section 231 of the Telecommunications Act (the Act) for it to specify points of interconnection that apply as at the close of 31 December 2019 under the Ultra-Fast Broadband (UFB) initiative.
2. The Commission notes the obligation under section 231(5) of the Act is to specify the points of interconnection (POIs) for layer 2 bitstream services. We agree the requirement of the Act is for the Commission to specify the layer 2 handover point. Section 231(5)(a) should not apply to layer 1 POIs as the requirement for Chorus and LFCs to provide such services only come into effect after this date – namely from 1 January 2020.
3. The obligation in section 231 (5)(b) of the Act also enables the Commission to specify additional POIs after establishing the POIs that apply for services at 31 December 2019. The approach taken by the Commission for POI specification captures the minimum requirement for Chorus and Local Fibre Companies (LFCs) to have at least one POI per candidate area as per the original specification of the UFB initiative.
4. The commitment to a single layer 2 POI per candidate area does not preclude Chorus and LFCs from offering additional POIs to access seekers.

### **Layer 1 and layer 2 obligations**

5. The Commission is clear that layer 2 POIs differ from the network aggregation points that apply to unbundled layer 1 services. Layer 1 unbundling refers to the requirement for Chorus and LFCs to disentangle their service offering so that access seekers can access bottleneck inputs with their own complementary infrastructure.
6. The Commission's Fibre Input Methodologies Draft Decision – Reasons Paper notes POIs for layer 2 services are differentiated from network aggregation points within the network

for layer 1 unbundling – which are connection points within the network located closer to the end-user premises. An active cabinet or a building are typical network aggregation points where regulated providers offer unbundled layer 1 services such as DFAS and intra-network backhaul services such as ICABS.

7. We support layer 1 unbundling as this allows service elements to be disentangled and consumed by access seekers at points of the network where they can use complementary telecommunications assets. Such access has been a critical factor with promoting competition and innovation with telecommunications service offerings. We encourage the Commission to further consider how unbundling aggregation can work effectively and eliminate the opportunity for Chorus and LFCs to frustrate network access.
8. For example, a key premise for an unbundled service is for the service to reflect the bottleneck element of the network exclusive of any replicable components. Accordingly, the terms proposed by Chorus and the LFCs for their PONFAS service violates the key aspects of unbundling – namely to provide a non-bundled service offering. The bundling of the distribution fibre and feeder fibre service into a single PONFAS offering limits the opportunity for an access seeker to only consume the bottleneck input. The Commission must ensure unbundling from 1 January 2020 meets the intent of the obligation for unbundled access.
9. The proposed unbundled service Chorus and LFCs are proposing to offer from 1 January 2020, namely the PONFAS service, only reflects a subset of the subsequent services required to be offered by Chorus and LFCs under their UFB Network Infrastructure Participation Agreement (NIPA) agreement. The list of subsequent services required to be provided by Chorus and LFCs are listed in the NIPA agreements. The subsequent services prescribed under the CIP agreements include separate services for co-location cabinet space for splitters, splitters and feeder fibre service and the distribution fibres services. The separation of service elements as required by Table B of Schedule 10 of the NIPA gives effect to the requirement for unbundling.
10. While the aggregation points for layer 1 are not captured as part of the consultation on POIs, we consider it important for the Commission to articulate how network aggregation points for PONFAS are expected to be provided as part of its consideration for prescribing points of interconnect. It is clear that the Fibre Flexibility Point (FFP) in the PONFAS architecture is a “network aggregation point”.
11. In our view, the requirement for fibre unbundling should reflect the regulation applying to Chorus fibre to the node (FTTN) network. In that instance, the unbundled elements included:

- a. The Sub-loop UCLL
- b. the Sub-loop Co-location Service; or
- c. the Sub-loop Backhaul Service.

12. Having each of these service elements defined and separable enables the Access Seeker to use these service elements combined or alternative wholesale network transport services to deliver their own telecommunications offering. This unbundled regulation allowed service innovation and efficient use of telecommunications infrastructure for end-users.

### **Layer 1 aggregation points**

13. Unbundled access is an aspect of the Act and regulatory framework which requires vigilant enforcement and clear rules. This is because incumbents have used this non-price lever to frustrate access and take-up of unbundled inputs. This includes foreclosure through means such as limiting co-location floor space or shelf rack-space in central offices or not providing a cable tie service.

14. We welcome the opportunity to discuss the matters raised in this submission further with the Commission.

Yours sincerely

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