



17/02/2020

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TRUSTPOWER'S CROSS-SUBMISSION ON FIBRE REGULATION DRAFT DECISION

Trustpower wishes to thank the Commerce Commission (**the Commission**) for the opportunity to provide a cross-submission on the matters raised on other parties submissions on the Commission's *Fibre input methodologies: Draft decision - reasons paper*.

Due to time constraints, we have limited our review to the joint submission from 2degrees, Spark, Vocus and Vodafone on the quality aspects of the draft fibre input methodologies dated 28 January 2020.

We share the fundamental concerns of the joint submitters (page 5) that:

"... fibre suppliers, if faced with only high-level regulations, not only have the incentive and ability to amend services in a way that reduces quality or distorts competition, but also shift costs or risk to access seekers and end users";

Relying on high-level regulations is not an adequate substitute for the extensive protections for local fibre company (**LFC**)¹ customers set out in the wholesale services agreements (**WSAs**). Accordingly, we agree with the joint submitters (page 4) that:

"to truly lift outcomes on the things that matter most to consumers it will be a joint effort between wholesale and retail providers. Wholesaler providers and RSPs need to be acting in the best interests of end users. No retail code can compensate for weak wholesale regulations."

In our view, the existing WSAs have proven to be an enduring and successful contractual basis for the wholesale relationship between LFCs and their customers. As a wholesale customer who relies on the protections outlined in these contractual arrangements, we are concerned about LFCs being able to alter, and potentially weaken, these protections under the new fibre regime without industry acceptance, or at least without the approval of the Commission.

As noted by the joint submitters, similar WSAs are a common feature in many jurisdictions, either as reference offers or similar. It would be uncommon (we are not aware of any) for a wholesale supplier with market power to have the freedom to set terms without some sort of industry acceptance or regulatory oversight.

We have an open mind about how these protections are to be achieved, including through the mechanisms suggested by the joint submitters. However, we are firm in the view that these protections should not be undermined by a general ability for LFCs to set the terms and conditions for provision of their fibre services. We urge the Commission to consider how, under the new fibre regulatory regime, it can most appropriately address the imbalance in power between LFCs and their customers that will exist

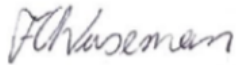
¹ Including Chorus

when setting wholesale terms in order to ensure outcomes are consistent with a workably competitive market.

More broadly, we consider the joint-submitters recommendation to include a requirement into the information disclosure obligations for an independent periodic customer (end user/RSP) satisfaction survey could have merit. This is because an independent survey would likely enhance transparency around the performance of regulated suppliers and potentially increase the responsiveness of the LFCs to end-users expectations. We encourage the Commission to consider this suggestion.

We would be pleased to elaborate on the points set out in this cross-submission and look forward to participating in any further discussions of these issues.

Regards,

A handwritten signature in cursive script, appearing to read 'F. Wiseman'.

Fiona Wiseman
Senior Advisor, Strategy and Regulation