



12 March 2021

Mr Tristan Gilbertson
Telecommunications Commissioner
Commerce Commission
44 The Terrace, Wellington 6011

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Dear Tristan,

Chorus Price-Quality Expenditure Proposal

1. The transition of the Ultra-Fast Broadband (UFB) fibre-to-the-Premises programme administered through contracts by Crown Infrastructure Partners to the Part 6 Telecommunications Act framework is a critical moment for New Zealand's telecommunications sector.
2. The billion-dollar plus Crown investment in the UFB1 programme year with contracts from 1 January 2012 to December 2019 provided both the necessary capital and incentive for legacy telecommunications "last mile" infrastructure to be upgraded to optical fibre and for customers to adopt the new fixed line technology medium. The displacement of copper wire telecommunications circuits designed for analogue telephony removes the technical impediments this technology had with delivering high-quality internet enabled applications.
3. The key element of the initial 10-year UFB programme was the service terms established by the UFB agreements. These service terms have ensured customers were able to enjoy the benefits of the different service grades available over the Gigabyte-Passive Optical Network (GPON) built for the programme on reasonable terms.
4. The transition to the Part 6 framework is a key milestone for Fixed Fibre Line Access Services (FFLAS) as it reflects the time-horizon beyond the initial UFB programme. The key safeguard considered at the commencement of the programme was to prescribe the unbundling of the UFB networks. The importance of this requirement was underscored by the Crown requiring the preferred tenderers to submit Non-Discrimination and Equivalence Deeds as a pre-condition for being selected to roll-out UFB networks.
5. Unbundling of UFB networks was intended to ensure continued innovation especially where operators restrained their own innovation and directing their capital programme to delivering only incremental improvements in their service suites.

6. The Part 6 transition also coincides with a time when vendor improvements in passive optical network technology can exceed the Gigabyte limit thresholds considered at the commencement of the UFB programme. Therefore, the safeguards of unbundling and the restraints of non-discrimination and equivalence are even more important to ensure the FFLAS networks continue to be utilised to their full potential.
7. The Commission's decisions for Chorus' first Price-Quality Path could lock in price increases with generational consequences for customers. The safeguard against dramatic price increases is the "grand-fathering" of current UFB product commercial terms. Therefore, customers of UFB will have some protection against price increases for existing services but are likely to pay a substantial premium for innovation on FFLAS networks. Accordingly, the opportunity for service innovation may force some service providers to fully by-pass FFLAS networks (through enhanced wireless products) or continue to provide their customers with sub-optimal services for their needs. That is unless the Chorus improves the product terms for its layer 1 Passive Optical Network Fibre Access Service (PONFAS).
8. Indeed, Vector Fibre notes the \$983 million three-year capital programme forecast by Chorus does not include any investment for improving the on-boarding ordering experience for customers wishing to acquire its prescribed layer 1 PONFAS. At present, Chorus customers must navigate manual spreadsheets to place PONFAS service orders and having to link network element identifiers to customer addresses.
9. Given the significant investment in capex forecasted for the period – Vector Fibre considers it reasonable for Chorus to direct some of its investment to addressing the poor quality on-boarding experience customers are having to endure for some of its prescribed products such as layer 1 PONFAS.
10. Vector Fibre also considers an effective layer 1 PONFAS product must be part of any assessment in the efficiency of Chorus' proposed capex programme. We note Cutler Merz challenged the growth rates forecasted for Chorus' \$73M OLT line card replacement programme for the XGSPON upgrade. We agree there needs to be further scrutiny on this aspect of the capex programme given the opportunity for demand from customers being satisfied by layer 1 access seekers. This is dependent on Chorus having a regulatory compliant layer 1 product for customers.
11. As Cutler Merz note, the Chorus Hyperfibre product range is in the early stages of development. Therefore, a full Optical Line Terminator card replacement programme may be an inefficient way of servicing the high bandwidth demand. Where Chorus customers

have the option to build their own high bandwidth service using Chorus' layer 1 input or through acquiring Chorus' Hyperfibre product then customer demand is more likely to be satisfied at a lower long-run cost for New Zealand. More importantly, innovation enabled by layer 1 input providers guard against Chorus managing the timeframes, technology pathways or service restrictions (such as service grooming) for incremental innovation at the expense of meeting telecommunication end user needs.

Yours sincerely



Mike Shirley
GM Vector Fibre