

18 July 2019

Hon Kris Faafoi
Minister of Broadcasting, Communications and Digital Media
Parliament Buildings
Wellington

Dear Minister

Final report on whether Spark's resale services should be omitted from Schedule 1 of the Telecommunications Act 2001

On behalf of all four members of the Commission's Telecommunications Division, I enclose our final report on whether three resale services¹ (**Resale Services**) of Spark New Zealand Limited (**Spark**) should be omitted from Part 2 of Schedule 1 of the Telecommunications Act 2001 (**the Act**).

Our final recommendation

In this final report, we recommend that the Resale Services should be omitted from Schedule 1 of the Act with immediate effect.

There are no dissenting views from the members of the Telecommunications Division regarding this recommendation.

The recommendation deals with the three services together, given our view that these services are 'sufficiently related to each other' for the purposes of clause 4(4) of Schedule 3 of the Act, and should therefore also be considered by you together.

Our reasoning

We consider that the Resale Services, currently subject to backstop regulation through inclusion in Schedule 1 of the Act, are not required to help promote competition in retail fixed-line telecommunications. In our view, competition in this market is well-established and increasingly effective, and no longer dependent on retailers being able to access these services at a wholesale level. Our reasoning is explained in detail in the enclosed report.

Our process

We started our investigation into whether the Resale Services should be omitted from Schedule 1 of the Act on 14 July 2016. On 21 December 2016, we recommended to the then Minister for Communications that he should defer the decision on whether to omit the Resale Services from Schedule 1 of the Act for two years from the date of our final report.

¹ The Resale Services are "Local access and calling service offered by means of fixed telecommunications network", "Retail services offered by means of a fixed telecommunications network" and "Retail Services offered by means of a fixed telecommunications network as part of bundle of retail services".

Following those two years, as required by clause 7 of Schedule 3 of the Act, we prepared and published on 17 April 2019 a further draft report on the recommendation and consulted with interested persons.

On 17 May 2019, we received submissions on our draft report from Chorus Limited (**Chorus**) and Spark. Both submitters agreed with our proposal to deregulate the Resale Services.

This final report contains the matters set out in the draft report and summarises, and makes recommendations on, the submissions received on it.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Gale', with a flourish at the end.

Dr Stephen Gale

Telecommunications Commissioner

Encl.

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Letter to Hon. Simon Bridges, Minister for Communications, dated 21 December 2016