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By email: telco@comcom.govt.nz

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Dear Keston

Cross-Submission on UBA Issues Paper

- 1 Vodafone welcomes the opportunity to comment on the UBA Issues Paper submissions.
- 2 The majority of the issues which might be addressed in this cross-submission have been well traversed in relation to the UCLL Issues Paper. As such, this submission should be read in conjunction with our submissions on that process. This submission addresses a number of specific points arising out of Chorus' submission on the UBA Issues Paper, as follows.

Timetable and workshop

- 3 As set out in our submissions on both the UBA and UCLL Issues Papers, we do not consider that achieving a final FPP determination for either of those processes before 1 December 2014 is feasible.¹
- 4 We note that Chorus seeks an additional workshop, prior to the May workshop indicated by the Commission.² In relation to this suggestion we note:
 - (a) Chorus did not actively engage in the UCLL Process and Issues workshop in December last year. While the UCLL and UBA processes are separate, we are concerned that this represents a second bite at the cherry (by Chorus requesting an additional stage in the consultation process of one process, when it did not actively engage at a comparable stage in the other); and
 - (b) both the Commission and Chorus have proposed, in our view, ambitious timelines for completing the FPP process. It is not reasonable for Chorus, on the one hand, to propose a final decision date which is inconsistent with the experience of international regulators in developing quality TSLRIC models, while simultaneously seeking to augment the consultation process with additional stages.
- 5 That said, we consider that there may be merit in a preliminary workshop on the UBA Issues and Processes going forward (or indeed the broader outcomes of the Commission's UCLL and UBA

¹ Vodafone Submission on the UCLL Issues Paper at section C1; Vodafone Submission on the UBA Issues Paper at section C.

² Chorus Submission on the UBA Issues Paper at [8].

consultation processes so far). However, we simply cannot see how that could be consistent with achieving a final decision before 1 December 2014.

The Modern Equivalent Asset (MEA)

- 6 As set out in our initial submission on the UBA Issues Paper, we recommend that the Commission adopt an approach to TSLRIC modelling that reflects:³
- (a) a single MEA, common to UCLL and UBA; and
 - (b) the most efficient MEA (a requirement inherent in a TSLRIC modelling exercising), which we consider is most likely to be a fibre and fixed wireless access (**FWA**) network.
- 7 Chorus (for similar reasons to that set out in its submission on the UCLL Issues Paper) submits that the Commission is constrained to using Chorus' existing copper network as the MEA.⁴ The arguments as to the wide discretion of the Commission for setting a TSLRIC price under the Telecommunications Act 2001 (and why we consider that the Commission is led to a fibre and FWA MEA) are set out in our submissions in relation to the UCLL FPP.⁵
- 8 In response to Chorus' particular comments in relation to the use (or otherwise) of the RBI network for the UBA MEA we note:
- (a) the overlap between the RBI and the appropriate footprint for UBA is likely to be very similar, but to the extent there are variances this can be addressed through modelling (that is, this is not a sufficient reason to exclude the RBI from the Commission's analysis); and
 - (b) at a higher level, if the most appropriate MEA for the layer 1 service is fibre and FWA, then it is reasonable to utilise this as the MEA for the layer 2 service. The layer 1 MEA is not tied specifically to RBI (instead it reflects the reality that, if the network were rebuilt today, rural areas would most likely be served by FWA and not fibre). RBI provides a useful benchmark for the Commission in determining the costs related to FWA, and is also evidence of the fact that FWA is the preferred (modern) approach to delivering broadband services to rural customers.

Additional costs of the UBA service

- 9 The single MEA used to provide both the layer 1 service (UCLL) and the layer 2 access service (UBA) should provide the basis for calculating the additional costs for UBA.
- 10 Chorus identifies a number of additional costs which relate to the UBA service.⁶ While we anticipate engaging more fully on the particular costs to be modelled during the next phase of the consultation process, as a matter of principle we consider that only the additional costs that would arise utilising the MEA infrastructure should be accounted for.
- 11 Finally, we note that costs should be appropriately allocated between UBA, UCLL and other services which utilise common infrastructure. Chorus should not be permitted to double-recover for shared assets, either between the regulated services which are currently subject to this review or through other services. This outcome would be inconsistent with the long term benefit of end-users of telecommunications services.

³ Vodafone Submission on the UBA Issues Paper at section D.

⁴ Chorus Submission on the UBA Issues Paper at [21] – [27].

⁵ Vodafone Submission on the UCLL Issues Paper at sections C2 and E.

⁶ Chorus Submission on the UBA Issues Paper at [17] – [20].