

31 August 2021

Wendy MacLucas  
Head of Fibre Regulation  
Commerce Commission  
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Wellington 6011

**BY EMAIL:** [wendy.maclucas@comcom.govt.nz](mailto:wendy.maclucas@comcom.govt.nz)

Dear Wendy,

**Chorus Incentives – regulatory approval process**

We write in relation to the Commerce Commission's (the **Commission**) recent draft decision to impose a further complex approval process on Chorus incentives. Vocus is extremely concerned about the damaging effect this will have on retail competition and the negative impact on fibre uptake.

The issue of Chorus incentive payments is of paramount importance to non-MNO retail service providers and we ask the Commission to give appropriate weight to our views ahead of the Commission's final price quality determination in December. Our strong views on this matter are based on two commercial realities – (a) our inability to compete in the mobile market which leads us to rely on fibre services and (b) the low-margin nature of fibre services and the crucial importance of the incentives to the commercial construct.

We have set out at length the barriers non-MNOs face competing in the mobile market during the Commission's mobile review. Our views remain the same today – we are still unable to reach any level of commercial terms with an MNO that will allow us to provide any real competitive offering in the market. This is highlighted further by the fact we have not been able to launch a commercially viable fixed wireless offering in market under any of our retail brands when this product has been the largest area of growth and focus for MNOs.

Fibre is a low-margin category, due to high input costs and significant competition. Fibre is now entering the late-adopter market and it is increasingly more expensive to acquire customers, with growth steadily slowing. As the copper withdraw process commences, this will drive costs further to contact and move customers to a fibre-based solution. It is crucial that we have sufficient margin to adequately invest in network performance, bandwidth growth and customer service. Fibre incentives are fundamental to operating in this segment of the market to acquire customers, grow fibre uptake and to compete against the growing strength of the MNOs.

We rely on fibre incentives to promote fibre and compete effectively with MNOs. The incentives also enable innovation around promotional offers to customers that stimulates them to look at what best suits their needs rather than MNOs relying on inertia to prevent all options being considered. The new fibre incentives approval process proposed by the Commission creates uncertainty around the incentives we will receive – this is detrimental to RSPs who are trying to continue to promote fibre as we need advance confirmation of available incentives to plan retail offerings and campaigns for the next calendar year and beyond.

We agree with the Commission's acknowledgement that customer incentives are a feature of workably competitive markets. We support Chorus in the way it develops its incentive offers via a consultation process with RSPs; the incentives encourage fibre uptake and promote retail competition by supporting non-MNO RSPs and helping new entrants grow market share.

[REDACTED]

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MNOs make up more than two thirds of the retail broadband market and they will be seeking to entrench that position. It is not surprising that Spark and Vodafone are making unsubstantiated claims about current incentive offers to support their fixed wireless play. The goal appears to be to distract the Commission from its task and it would be prudent for the Commission to approach their arguments with a healthy degree of scepticism. These are poor behaviours of the past and attempts to return to industry market structures that have a severe and detrimental impacts on competition.

If Chorus fibre incentives are negatively impacted by the Commission's proposals, the ability of independent retailers to promote fibre services and compete with wireless alternatives by MNOs will be put at risk. Given the technology specific nature of the Part 6 regime, broadband markets are already distorted in favour of vertically integrated, unregulated MNOs and the proposed additional regulation of the fibre incentives serves to exacerbate this distortion.

We would welcome the opportunity to talk to you further about our views. To reiterate, this is of significant concern to us and we assume to all other non-MNO retailers as well.

Yours sincerely



Mark Callander  
Chief Executive  
**Vocus New Zealand**