

31 August 2022

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**Specified Points of Interconnection – Draft framework and decision relating to amending the s 231 notice and changes since 2019**

Mercury Ltd (Mercury) welcomes the opportunity to provide a submission to the Commerce Commission (the Commission) on its Specified points of interconnection - draft framework for amending s 231 notice consultation paper (the Paper). Mercury via its Trustpower brand supplies telecommunication services to over 114,000 New Zealanders. We are the 4<sup>th</sup> largest retailer of telecommunications services in New Zealand. No part of this submission is confidential.

The Commission is seeking feedback on their proposed framework for exercising powers under s 231 of the Act as well as their decision prescribing Chorus' nine additional Points of Interconnection (POIs) which were approved under the UFB initiative after the date of their initial notice (between 31 December 2019 and 1 January 2022).

The Commission's initial notice prescribed only those POIs that had been adopted by the industry under the Network Infrastructure Project Agreement (NIPA). Chorus has requested that the Commission amend the s 231 notice to prescribe nine additional POIs which were approved under the UFB initiative between 31 December 2022 1 January. We acknowledge the Commission's comments and agree that, in this specific instance, taking a purposive interpretation of the Act lends the Commission prescribing Chorus' nine additional POIs approved under the UFB initiative. However, we encourage careful consideration of the process to specify additional POIs as we see the current POIs as having some limitations.

As the Commission notes, the purpose of prescribing POIs is to establish fibre handover points. Our concern is that some of the existing SPOIs are no longer fit for purpose as handover services are not commercially available at these locations today. Over the last several years we have been observing an increased trend of LFCs adding new POIs to the fibre network and discontinue handover services from some of the existing POIs. This has imposed significant costs on ISPs by having to establish new backhaul links to their core network. Factors such as reliability issues due to power constraints have been explained as some of the reasons for additional POIs, but it remains unclear why other resilience options were not explored as well as it might have been more economically efficient to increase reliability at an existing POI than incur costs establishing a new POI.

As an example, Chorus decision not to offer hand-over services at Hamilton POI anymore has meant we have had to:

- a. Order new hand over links (HOLs) at Frankton Junction
- b. Order additional Intra Candidate Area Backhauls (ICABS) so as to extend the HOL back to an alternate site (HN, or CLE)
  - i. Chorus mitigated this latter cost by offering 'free' ICAB service to the original POI so that we could pick up the handovers but in 2021 stopped offering the service and is now charging a significant price to provide this service.

- c. accept a complete lack of resiliency for our customers, where a fibre cut to the ICABs could incur extended outages for multiple thousands of our customers.

This same example is repeated in Auckland, and Nelson.

Continuing to specify new POIs may not be efficient for the industry overall when there appears to be no corresponding process which acknowledges when existing POI locations are no longer valid for new connections and what options there are instead. We are thus supportive of the Commission's framework on change requests and also encourage the Commission, as part of their process, to request details as to what level of physical capacity and options for improvements for the handover service remain at the existing POIs as there is limited oversight over this at present. It would be useful to have these information asymmetries addressed. We repeat and agree with Vodafone's 2019 comment with regards to this who note the regime should "produce better publicly available data on the remaining physical handover capacity at each POI. This will provide us with a better basis to make decisions on what equipment to install at a POI".<sup>1</sup>

If you have any questions, please contact [REDACTED]

Yours sincerely

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<sup>1</sup> Vodafone Submission on Specified Points of Interconnection 26 November 2019

