



Section 9A Backhaul Study Options Paper

**Two Degrees Mobile Limited
Response to Submissions on
the Commerce Commission
preliminary questions in
understanding domestic
backhaul services**

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1 2degrees support a review of backhaul markets

2degrees welcomes the opportunity to provide comments on cross-submissions to the Commerce Commission (**Commission**) Consultation Document, *A Section 9A Backhaul Study, Preliminary questions in understanding domestic backhaul services* (the **Consultation Paper**).

We agree with a number of the submissions that it is useful for the Commission to review its current understanding of relevant backhaul markets, technology developments and implications, and whether competition issues may arise (and if so where), given the significant changes in this market.

Backhaul is a critical aspect of telecommunications networks and therefore the services provided over those networks. Further, backhaul service quality has a direct impact on end users' experience with telecommunications services. 2degrees expects backhaul capacity to become increasingly important in both urban and rural areas as data demand continues to increase - including as a result of new content, 5G and IoT applications, as well as substantial additional 4G, UFB and RBI capacity demand.

Given the importance of backhaul to the functioning of downstream end user telecommunications services, and the potential for market power concerns, we consider the Commission needs to ensure that regulation of backhaul remains relevant to the evolving market so that it incentivises the offering of competitive services and allows any issues that do arise to be quickly addressed.

2 Levels of competition concern vary by geography

We agree with other submitters that competition issues are not a concern on all backhaul routes. In particular, with some exceptions, there is generally more competition between major centres, with regional backhaul links sometimes limited to a single provider. 2degrees purchases backhaul services from several different backhaul providers for such routes. We therefore support consideration of backhaul markets on a geographic basis, so that the different supply and demand characteristics of particular routes are appropriately considered.¹

As for many other submitters, 2degrees is reliant on Chorus as a backhaul provider for many backhaul routes, including many regional routes. This includes for the provision of mobile backhaul as well as fixed backhaul. This backhaul is important to 2degrees' network coverage, including to support our build out of regional cell sites, to provide for network diversity and to provide service to specific customers – for example national business data customers in regional areas.

For these routes, while there is no choice in backhaul supplier, in many cases we note it is likely to be uneconomic for multiple competing backhaul links to provide service (for example due to scale economies). While one link could be an efficient outcome this does limit competition constraints that could arise from competitive entry, and reduces countervailing buyer power on such routes.

¹ We note that while merger decisions by the Competition Division of the Commerce Commission have referred to "national backhaul" markets, this analysis has considered and focussed on backhaul markets where the merging parties have operated, rather than considering the impact of competition issues on all types of backhaul market where they do not operate.

In addition, unlike other telecommunications providers such as Vodafone, Vocus and Spark, (that have all been able to acquire backhaul networks or that have backhaul networks following structural separation²), given 2degrees does not own its own physical fibre network 2degrees can in some cases be more reliant on Chorus for both fixed and mobile backhaul on a number of other routes, and is less able to credibly threaten entry on a range of routes where an operator (or operators) do not provide reasonable offers, or importantly, access due to actual or future capacity issues. This includes regarding the desire to upgrade to provide additional future capacity.

In addition to the backhaul routes raised by multiple other submitters, a key route where 2degrees has concerns is inter-island backhaul. We agree with Kordia that real competition issues exist in relation to access to backhaul capacity/dark fibre between the North and South Islands, which we require for both capacity demand and diversity reasons. While there are multiple cables, including a Spark and a Vodafone cable (Levin to Nelson and Wellington to Kaikoura), we do not consider such third party service providers are incentivised to provide competitive access to this service.

That said, we agree that on other routes where there has been some competition for backhaul, prices have lowered well below the regulated price. For example, in our experience, the introduction of (commercial) Chorus Regional Transport (CRT) pricing has generally significantly lowered pricing on those routes. Excluding the inter-island route we do not generally have concerns on routes where CRT has been introduced. However, we are aware that CRT is not available everywhere, particularly in smaller communities and in regional areas.

While we expect backhaul costs to be higher in more regional areas than in higher density areas, and support a reasonable return to allow ongoing investment in backhaul, we agree with other submitters that the significant size of these price differences is a concern. Alongside falling international backhaul prices, considered in the previous New Zealand international benchmark analysis for backhaul, we consider this indicates that the regulated pricing (which also drives some commercial pricing) needs to be updated to provide an effective constraint now and in the future.

3 We support a technology agnostic approach

2degrees agrees with other submissions that support a technology agnostic approach to backhaul regulation. For example, we agree with Spark's observation that the current regulated service descriptions:

"[D]o not reflect how operators purchase and use backhaul capacity, because they are expressed to be service-specific transmission capacity products rather than generic transmission capacity products"

We consider that the current focus on copper is historic and outdated. We support a backhaul service that can be used for multiple services, including fixed, Fixed Wireless Access (FWA), the Internet of Things (IoT) and mobile services. This is in line with how the market works in practice, as well as regulatory developments overseas (for example in Australia and the UK).

² The Commission approved Vodafone to purchase TelstraClear, with its backhaul network, in 2012, and Vocus to acquire M2 (including Slingshot, Orcon, 2talk, Flip and CallPlus brands) in 2015, the latter of which included FX networks (a 2degrees backhaul supplier). Spark maintained various backhaul assets following the structural separation of Telecom and Chorus.

4 Regulatory price and non-price terms need to be considered

We also agree the Commission should consider not just price but non-price aspects to ensure the regulated service is fit for purpose, including service performance, increased transparency of congestion levels, timeliness of supply, restoration times and remedies.

We consider a DWDM and dark fibre backhaul product is relevant, and support a 100Gbps service in addition to 10Gbps options given technology developments and the desire for “future proofing”.

As raised in our response to the section 30R UBA review, we also support a review of the prices for handovers, which are not reflective of underlying costs.

5 2degrees supports regulation of UFB DFAS

We note backhaul in metropolitan areas is also reliant on Chorus, however this is currently subject to the Crown Fibre Holdings UFB (DFAS) contract we have not had any issues with this to date.

We note it will be important to ensure that this remains the case with proposed changes in 2020. As noted above, 2degrees supports regulation of dark fibre backhaul that can be used for multiple technologies, including both fixed fibre and mobile applications.