

ISPANZ Cross-Submission on Fibre fixed line access service deregulation review under section 210 of the Telecommunications Act Reasonable grounds assessment draft decision

Introduction

You have asked for cross-submissions on the responses to your draft decision that no reasonable grounds exist to start a deregulation review for Voice services, Bitstream PON services, Unbundled PON services, Point-to-point services, Transport services, Co-location and interconnected services, and Connection services.

Thank you for the opportunity to comment. ISPANZ continues to agree with your draft decision as summarised in Table 3.1 of your draft decision document.

Comment

ISPANZ members are all retail service providers (as described in clause 2.45 of your draft decision document) who rely on there being efficient and cost-effective FFLAS providers. In order to provide competitive, high quality and reasonably priced connectivity to end customers, our members rely on the purpose detailed in s162 of the Telecommunications Act being put into effect. We agree strongly that regulated fibre service providers must:

- have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and
- have incentives to improve efficiency and supply fibre fixed line access services of a quality that reflects end-user demands; and
- allow end-users to share the benefits of efficiency gains in the supply of fibre fixed line access services, including through lower prices; and
- are limited in their ability to extract excessive profits.

Our view is that the current regulatory regime helps deliver on these outcomes and that any deregulation would be detrimental to the quality and cost of end-users' connectivity. We strongly oppose any proposals to reduce or remove the regulation of FFLAS.

Cross-Submission

Chorus – We respectfully submit that Chorus is a monopoly operator across much of New Zealand. Chorus has a commercial interest in overturning your draft decision. ISPANZ members feel, most strongly, that in the absence of any effective competition, Chorus' actions need to be constrained by appropriate regulation, and that what is currently in place is appropriate.

Frontier Economics – Frontier Economics was contracted by Chorus to produce their submission. Frontier Economics' submission is therefore not an unbiased assessment. It should not add weight to Chorus' position. It is part of it.

Tuatahi – We respectfully submit that Tuatahi's interpretation of Section 210 is incorrect. We disagree with their assessment in their Section 9 that the other

technologies discussed represent a “*possible substitute for fibre*”. We disagree with their analysis in their paragraph 1.6.

Enable – We do not agree with Enable’s assessment that the other technologies discussed represent a “*possible substitute for fibre*”.

BTG – We agree with BTG when they say that “We agree with the Commission that both Chorus and LFC's occupy a near monopoly position in the market currently.”

Spark – We agree with Spark when they say “we believe the Commission could also have rightly observed that the lack of evidence of competitive constraints across a broad range of FFLAS services meant that a deregulation review is unlikely to be warranted.

Two Degrees – We agree with Two Degrees’ statement that “There is little or no competition in the provision of these wholesale fibre services. Chorus has substantial market power in the provision of FFLAS which should be addressed by price-quality regulation under Part 6 of the Act. Continued price-quality regulation best achieves the purposes in sections 162 and 166 of the Act.”

Summary

ISPANZ agrees with your draft decision as summarised in Table 3.1 of your draft decision document. We note that the only dissenting voices are those of LFCs who have a clear commercial interest in having your decision overturned. We further note that users of the LFCs’ services are universally in agreement with your draft decision.

We request that your draft decision remains unchanged.

Thank you for the opportunity to provide a cross-submission.

