

Submission on review of the MBNZ programme

16 March 2022

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Introduction

1. This is Chorus' submission on the Commerce Commission's (**Commission**) review of its Measuring Broadband New Zealand (**MBNZ**) programme, dated 23 February 2022. We aim to ensure consumers are well informed and can benefit from retail competition for broadband services, supported by our open access wholesale copper and fibre networks.
2. Chorus supports the Commission continuing its MBNZ programme and providing consumers with key independent information on broadband performance. The MBNZ programme is a vital tool for consumers, particularly as consumers are spoilt for choice when it comes to choosing a broadband plan and a retail service provider (**RSP**). By providing transparency on broadband quality, the MBNZ programme supports consumers to make informed choices which is good for competition.
3. The MBNZ programme is also a key tool that supports the Commission's ability to monitor and report on the development of the telecommunications market and on competition within those markets.
4. To help ensure the programme continues to deliver meaningful information to the Commission and consumers, we recommend the following:
 - a. **MBNZ coverage of plans and RSPs reflect market share as outlined in the Commission's Annual Telecommunications Monitoring Report** – including continued reporting of copper connections given that it is still the second highest connection type and introducing other plans such as 5G fixed-wireless, satellite and Hyperfibre. While the sample may start small for these plan types, early transparency of performance is still useful for consumers and can be managed with explanatory notes.
 - b. **Wi-Fi performance should not be reported as part of the MBNZ programme** - measuring the quality of in-home Wi-Fi does not support the Commission's objectives in monitoring the performance of the telecommunications market, because many important variables affecting Wi-Fi performance are wholly unrelated to the speed and quality of telecommunications services being provided.
 - c. **Shining a light on rural vs urban broadband plans** – by actively monitoring the different plans on offer in rural vs urban areas, MBNZ could create greater awareness of digital gap – a step to assist in closing it.
 - d. **Include a measure for "proportion of busy hours where advertised speed was achieved"** – as reported by the ACCC, this measure would complement the Commission's broader retail service quality work which has an increased focus on busy hour reporting.
 - e. **Encouraging more volunteers and RSPs** - we support initiatives to grow the number of volunteers and RSPs and encourage the Commission to consider ways to support this. However, this must be balanced with the need to preserve robust and unbiased sampling.
 - f. **Alternative information and reporting** – the Commission should explore other ways to leverage MBNZ information for different consumers, which

could include more interactive and up-to-date information via a website. If the Commission wishes to increase reporting it could do so through a live website rather than issuing more reports.

- g. **Including emissions information for broadband plans** – given the Government’s commitment to the Paris Agreement and its ambition to be a climate zero society by 2050, the Commission should consider whether emission information could be relevant in the longer-term as a broadband measure to support consumer choice. For example, in future it could consider building an ‘emissions rating’ into its reporting.

The MBNZ programme must deliver a meaningful representation of broadband performance

5. We support the Commission’s objective to enhance the next phase of the MBNZ programme. To ensure the programme continues delivering value for consumers, we recommend the programme focuses on meaningful representation of the broadband market.

Coverage of plans and RSPs should reflect market share

6. We recommend that MBNZ reporting keep pace and meaning by reflecting the proportion of market share as reported in the Commission’s Annual Monitoring Report, and onboard new plans and RSP share as soon as practicably possible.
7. For instance, the current market share of connections by technology shows the most popular internet connection type is fibre (57%), followed by copper (28%) and fixed-wireless (14%), and “other” (3%). RSP market share largely rests with five RSPs, with the remaining “other RSPs” at 13%.¹
8. We support continued reporting of these most popular connection types and larger RSPs, but we encourage adding other, smaller RSPs and new plans / technologies so that consumers can be informed about the full suite of options the industry has to offer. We recognise that sample size can be an issue, but small samples can provide meaningful information so long as they are presented fairly. E.g., consumers’ understanding can be managed with clear explanations (e.g., as the MBNZ report currently does for Vodafone’s HFC cable performance). Providing information on the performance and offerings of smaller RSPs gives greater visibility for consumers of the options available to them and promotes competition.
9. We support introducing plans based on 5G fixed-wireless, satellite and higher-speed fibre technologies, including Hyperfibre. We would also support testing of mobile broadband coverage and performance as it is used by a portion of consumers for their main internet access.
10. Importantly, we recommend retaining a focus on copper – and especially VDSL. While copper connections may be declining overall, copper broadband is still a relevant (and popular) option depending on your location, and a more prevalent

¹ Commerce Commission, *Annual Telecommunications Monitoring Report 2020*, dated March 2021, p 3 and 25.

broadband technology to fixed-wireless. While Chorus has commenced its copper withdrawal programme, where it is permitted to do so, it has no immediate plans to withdraw copper on a large-scale basis. Removing or reducing focus on copper could mislead consumers by giving the impression that it is no longer an option and / or that copper (at least VDSL) is not a comparable product to fibre or fixed-wireless. On the contrary, copper VDSL performs on average higher speeds than 4G fixed-wireless, and for some consumers it can perform as fast as Fibre 100.²

11. Furthermore, other regulatory settings limit our ability to withdraw copper where fibre is not available (i.e. outside of Specified Fibre Areas). In rural New Zealand, copper remains an important connectivity option, despite its lower profile due to the mobile network operators preference to promote their own FWA services.

In-home Wi-Fi does not measure broadband performance and may cause consumer confusion

12. We would not support introducing household Wi-Fi performance into the MBNZ programme. The performance of Wi-Fi devices, while reflecting part of the consumer internet experience, is separate from “broadband performance”. Even when the RSP has supplied the Wi-Fi device, it has no control over the device’s placement or configuration, which are each fundamental to Wi-Fi performance.
13. Importantly, the quality of Wi-Fi does not reflect the quality of the retail broadband service, or the underlying technology. Rather, the quality of Wi-Fi is impacted by several highly variable factors from the position, age and capability of the device to the construction of the dwelling and the number of simultaneous users.
14. Therefore, we consider including a Wi-Fi measure does not advance the overall objective of the MBNZ programme. The purpose of MBNZ, and the Commission’s monitoring powers more generally, is to monitor and report on the performance and development of telecommunications markets and on competition within those markets, and provide information in a way that informs consumer choice. Measuring the quality of in-home Wi-Fi would not further this objective because many important variables affecting Wi-Fi performance are unrelated to the speed and quality of the telecommunications services being provided.
15. Introducing Wi-Fi performance in the MBNZ report would risk confusing consumers about their internet performance, on any given household device, with their underlying broadband plan. While we agree there are benefits to consumers better understanding the quality of their Wi-Fi and how it could be impacted, conflating that information with broadband performance risks diminishing consumers’ understanding rather than helping them make informed choices about their broadband service. Providers already offer information about in-home Wi-Fi and the Commission’s Retail Service Quality Guidelines on marketing alternative services (**MAS Guidelines**) require RSPs to inform consumers about factors that can impact a service, including positioning Wi-Fi modems and other equipment.
16. Noting these variables and factors are beyond the Commission’s control and visibility, it is difficult to envisage how longitudinal data could shed meaningful light on in-home Wi-Fi performance for consumers.

² Commerce Commission, *Measuring Broadband New Zealand Spring Report*, dated December 2021 p 5-6.

Balancing the need to monitor and meet consumer needs

17. We support a continued focus on consumers and an MBNZ programme that remains relevant, digestible, and useful for allowing consumers to make an informed choice. While the current report is very informative, we recommend the Commission consider introducing the following:

- a. **Shining a light on rural vs urban broadband plans** – the MBNZ programme could help shine a light on the performance across rural and urban services and plans by specifically comparing broadband performance across those areas. As digital inclusion is a particular focus of the government and wider sector, MBNZ reporting could provide a helpful means to assist with closing the digital gap by actively monitoring plans offered to “rural” customers, such as those provided under the Rural Broadband Initiative, Rural Broadband Plans by RSP, WISPs, satellite, and copper.

We acknowledge that defining “rural” could be a challenge. Using a definition that already exists such as the Commission’s Annual Determination of Specified Fibre Areas (where this area could be defined as “urban”) may be a practical way of addressing this.

- b. **Adding a measure for “proportion of busy hours where advertised speed was achieved”** – this measure is currently reported in the ACCC’s Measuring Broadband programme.³ We recommend it be added to MBNZ as it would provide a useful link to the Commission’s MAS Guidelines which require RSPs to advertise based on average peak time speed. It would allow consumers to see if such advertised speeds were accurate and how individual RSPs differ across different wholesale inputs (assuming this measure would cover different technology platforms).
- c. **Encouraging more volunteers and RSPs** – we support a continued focus on growing the number of volunteers and RSPs and encourage the Commission to consider ways to support this. For example, it could consider allowing for a financial incentive – either from the Commission or an RSP to incentivise more consumers to take part in the programme. However, this must be balanced with the need to preserve a robust and unbiased sampling method. I.e., neither the Commission nor an RSP should cherry-pick desirable consumers for testing.
- d. **Alternative information for consumers** – the Commission could explore other ways to present information to the average consumer. For example, the Commission could leverage the MBNZ data to create an interactive webpage where you could simply search or click for “fastest service for video conferencing”, or “best plan for high quality gaming”. While the MBNZ report is very informative and useful, there could be other ways to present the

³ See the Australian Competition and Consumer Commission’s (ACCC) Measuring Broadband Report, dated 20 December 2021 at Figure 23: <https://www.accc.gov.au/system/files/Measuring%20Broadband%20Australia%20-%20Report%2015%20-%20December%202021.pdf>

information to different audiences. We encourage the Commission to explore these alternatives.

- e. **Frequency of reporting** – we consider the current quarterly / seasonal reporting to be fit for purpose. Particularly as the MAS Guidelines require marketing material to refer to the most recent MBNZ, where relevant. Alternatively, the Commission could complement its quarterly reports with a real-time dashboard. This wouldn't detract from its MBNZ information but provide complementary tools to the MBNZ report.

Regardless, should the Commission wish to report more regularly, we would not support a frequency of one per month or that any MAS requirements need to follow the increased cadence. Any requirement that is more onerous would increase costs on marketing for little benefit (e.g., we assume there would be little material change between monthly reports).

- f. **Including emissions information for broadband plans** – recent studies have shown that the carbon emissions differ across different broadband technologies.⁴ Given the Government's commitment to the Paris Agreement and the Government's ambition to be a climate zero society by 2050, the Commission should consider whether this information could be relevant in the longer-term as a broadband measure to support consumer choice. For example, in future it could consider building an 'emissions rating' into its reporting.

⁴ See Sapere, Assessing the emissions footprint of the fibre networks relative to other fixed broadband options in New Zealand, dated 25 November 2021: <https://company.chorus.co.nz/file-download/download/public/2314>