

**Submission on
MTAS
Reasonable
Grounds
Assessment
Draft Decision**

11 December 2024

C H ● R U S

Submission

1. This submission responds to the Commerce Commission's (**Commission**) draft decision that there are reasonable grounds to commence an investigation into whether the Mobile Termination Access Service (**MTAS**) should be omitted from Schedule 1 of the Telecommunications Act 2001 (**Act**), dated 13 November 2024. We welcome the Commission's continued review of telecommunications services to ensure regulation remains fit-for-purpose.
2. We agree with the Commission's view that there are reasonable grounds to commence an investigation into MTAS. However, the Commission should apply the same threshold to its reasonable grounds assessment for Fibre Fixed Line Access Services (**FFLAS**).

Reasonable grounds exist for an investigation into FFLAS regulation

3. The Commission applies a lower threshold to arrive at its MTAS reasonable grounds draft decision than it used for the draft FFLAS reasonable grounds assessment. For MTAS, the Commission considers there are reasonable grounds if there is "at least a realistic possibility"¹ that regulation is no longer necessary, however, for FFLAS the threshold is if it is "likely"² that that the services should no longer be regulated.
4. The difference in statutory context between the Commission's assessment of MTAS under Schedule 3 of the Act, and the assessment being carried out concurrently on FFLAS under Part 6 of the Act, is not sufficient to justify use of a substantially different threshold. Our submission on the Commission's FFLAS reasonable grounds draft decision sets out in detail why its approach in that case is incorrect.³ We urge the Commission to adopt a consistent approach in assessing whether there are reasonable grounds to commence an investigation into the regulation of FFLAS.
5. The Commission believes MTAS market conditions have changed sufficiently to warrant an investigation, with indirect competition from over-the-top (**OTT**) services, consumer focus on mobile data and persistent competition highlighted as factors. Based on this the Commission considers that the cost of MTAS regulation might outweigh the benefits. Our view is that similar analysis shows that FFLAS regulation should also be reviewed. Like MTAS:
 - a. FFLAS also faces indirect competition - from retail fixed wireless access (**FWA**) which already has 15% market share in urban areas.⁴ FFLAS also faces competition from cable and other fibre networks; and
 - b. Competition is established and growing, with urban FWA plans having been available for over eight years and the number of FWA network operators increasing from one to three. In addition, the number of fibre network operators has also increased.

¹ Commerce Commission, Draft decision on whether to commence an investigation under clause 1(3) of Schedule 3 of the Telecommunications Act Reasonable grounds assessment draft decision (13 November 2024), at 2.13

² Commerce Commission, Fibre fixed line access service deregulation review under section 210 of the Telecommunications Act Reasonable grounds assessment draft decision (27 August 2024), at 2.14

³ Chorus, Chorus submission on Fibre fixed line access service deregulation review: Reasonable grounds assessment draft decision (24 September 2024), paragraphs 20-36.

⁴ Commerce Commission. 2023 Telecommunications Monitoring Report (15 August 2024), at figure 6.