



Review of Designated & Specified Services under Schedule 1 of the
Telecommunications Act

Submission to Commerce Commission

23rd May 2016

ABOUT VOCUS

1. Vocus (New Zealand) (**Vocus**) welcomes the opportunity to make this submission to the Commerce Commission on the " Review of Designated & Specified Services under Schedule 1 of the Telecommunications Act" paper.
2. Vocus New Zealand is the third largest fixed line operator employing over 550 staff In New Zealand. Our retail operation includes a number of challenger brands - Slingshot, Orcon, Flip and 2Talk. We are also an active wholesaler of services including access, voice and broadband over both fibre and copper.
3. Vocus has made significant investments in New Zealand. We are the largest copper unbundler with a presence in over 200 exchanges throughout New Zealand. In addition we operate 4,200km of fibre optic network transits between virtually all major towns and cities, and connect directly into all major peering exchanges. .
4. Our customers in New Zealand range from government agencies, integrators, large corporate, SME and residential households. We are committed to New Zealand's fibre future.
5. Vocus Group is one of the fastest growing telecommunications companies in Australasia and a major provider of voice, broadband, domestic & international connectivity and data centres throughout New Zealand and Australia.
6. If you would like any further information about the topics in this submission or have any queries about the submission, please contact:

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SUMMARY

1. Vocus thanks the Commission for the opportunity to make this short submission on whether there are reasonable grounds to consider an investigation into deregulating any of the services in Schedule 1.
2. Vocus generally supports the Commission's view on most of the list of services. The focus of our response is on the retail services offered by means of a fixed telecommunications network and the extent to which Baseband IP deployment provides a competitive constraint.
3. Vocus view is that whilst Baseband IP has the potential to be a substitute at this point in time it is not a competitive constraint on PSTN as evidenced by Spark's continued increasing in price despite Baseband being available and coverage being extended.
4. Resold PSTN remains a critical service at this point in time with approximately 380,000 services and only a small decline in numbers since peaking in 2011/12.
5. There are barriers to migrations to Baseband and a significant opportunity cost for RSP's who undertake mass migrations at this time. The opportunity cost would be the consequence of a loss of focus on UFB migrations, which compete for resources, at a time when UFB is starting to take off. We would also be concerned if Chorus could handle mass migrations from a number of RSP's at this time.
6. Vocus are not seeking to prolong existence of legacy PSTN or encourage inefficient investment by Spark in legacy technology, If Spark were seeking to withdraw service then there would be different issues and considerations.
7. Vocus acknowledge that Baseband IP, if widely deployed, has the potential to be a competitive constraint and we suggest the Commission considers an earlier review 2 to 3 years from now rather than 5 years for those specific services. Vocus does not support the removal of the regulatory backstop at this time.

Is Baseband IP, where available, a substitute for PSTN. What limitations exist?

8. In the majority of cases Baseband IP has the potential to act as a substitute in areas where it has been deployed. However there are a number of limitations and barriers to being able to migrate customers away from legacy PSTN services.
9. These fall into two categories
 - (a) Consumer reluctance to change either through inertia or more often the need to replace legacy equipment
 - (b) The opportunity cost to an RSP of having to introduce new services and resource and manage large scale migrations with the associated risk of lost customers.

10. Based on Vocus' experience to date we would estimate that around 20% of consumers and business would be difficult to migrate away from PSTN in areas where baseband IP is available. The reasons for this are varied, including investments that would need to be made by end users for the replacement of:-
 - (a) Monitored alarms
 - (b) Fax machines
 - (c) Legacy PBX equipment
 - (d) EFTPOS devices
11. In addition to barriers caused by equipment and reluctance of end users to change there is the logistics of migrations. As the Commission's paper highlights (figure 2 page 26) the resold Spark voice line service is:-
 - (a) one of the cornerstone wholesale services for competitors to Spark with approximately 380,000 lines. As the Commission observes (page 25 footnote 3) VoIP services are growing but PSTN remains the dominant technology to deliver voice.
 - (b) relatively stable in terms of number of connections with only a small decline in connections since plateauing in 2011/12
12. If RSP's found themselves in a position where, as a result of Spark changing commercial arrangements, they had little option but to migrate to Baseband IP the migrations could easily take Chorus & RSP's couple of years to complete. To reiterate this is at a time when UFB migrations is the most important focus for RSP's and Chorus. So the opportunity cost for Spark's competitors could be significant, with Spark being the potential benefactor.

To what extent is Baseband IP currently a competitive constraint where available

13. Whilst we acknowledge that Baseband IP has the capability to be a substitute for the majority of users the experience to date suggests that it is currently **not a significant competitive constraint on Sparks PSTN service.**
14. The Commission note (para 165) the monthly price of a residential fixed line connection has increased since 2010. Some significant increase have occurred in the last 18 months, the most recent only a few months ago.
15. **The fact is that despite the presence of Baseband IP since 2014 and Chorus' plans to extend the coverage Spark have continued to increase their price of PSTN services annually.**
16. The conclusion can only be that at this point in time neither Baseband IP nor competitors LLU network deployments, are acting as a competitive constraint on Sparks PSTN service.

What impact removing regulation at this time?

17. Removing the regulatory backstop at this time risks competitors being held 'captive customer' to Spark for a period of time - years not months – even if they decided to move those customers that are able to be migrated to an alternate service.
18. Furthermore those competitors to Spark would have to deal with a significant distraction from the main area of competition - UFB connections and migrations.
19. It seems highly likely Spark will look to retire the PSTN service at some time in the next 5 years. This could be a reason to remove the regulatory backstop. As we have already stated that is a different discussion with different dynamics.
20. Based on the facts to date and considering the life cycle of the PSTN service a rational course of action, following the removal of the regulatory backstop, would be for Spark to decrease, or even remove, the difference between wholesale and retail pricing. The impact would be: -
 - (a) A transfer of margin from competitors to Spark for the 'tail' of the life of the PSTN service
 - (b) Most importantly a significant distraction over a couple of years for competitors who decide to migrate at a time when UFB migrations are ramping up and competing for the same resources.
 - (c) and a driver of churn for customers impacted by the migration
21. So the removal of the regulatory backstop could make competitors less able to compete and therefore distort the competitive landscape at a critical time for UFB. This would be contrary to s18 in our view.

Will the situation change at some point in the future?

22. Vocus considers that the Commission has correctly identified some of the trends and potential substitutes but we consider that it would be premature to withdraw the regulatory backstop.
23. At some point we would anticipate that it will be appropriate to review the situation, although we would have expected that the conversation is more likely to focus on the withdrawal due to technical obsolescence. To reiterate Vocus would see this as a different issue with different considerations. It would be inefficient for Spark to continue to invest in the legacy technology and the competitive impacts would be different.
24. Vocus acknowledges that Baseband IP or mobile services may become competitive constraints before the next 5 year review period.
25. Vocus suggests the Commission could consider whether an earlier review of the specific PSTN services is warranted, say 2-3 years, at which time the situation may be different – competitors may be less reliant on PSTN or Spark may wish to withdraw the service. We would not be in favour of a

review of all the services at that time as this is contrary to the notion of regulatory certainty that was given significant consideration in recent decisions.