

## **Review of the designated backhaul services**

Review of the Standard Terms Determination for the designated service Chorus' unbundled copper local loop and unbundled copper low frequency network backhaul (telephone exchange to interconnect point) service and the standard terms determination for the designated service Chorus' Unbundled Bitstream Access Backhaul

### **Decision No. NZCC 29**

The Commission:

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Date: 5 October 2012

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## Glossary

<b>Access seeker</b>	means an access seeker under the Act that has made a request in writing pursuant to section 30S(1) of the Act which Chorus receives from an access seeker to make the UCLL and UCLF Backhaul Service available on the terms set out in the UCLL and UCLF Standard Terms Determination or the UBA Backhaul Service available on the terms set out in the UBA Backhaul Standard Terms Determination
<b>Act</b>	means the Telecommunications Act 2001
<b>Amendment Act</b>	means the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011
<b>ASNAPOI Handover Point</b>	means: <ul style="list-style-type: none"> <li>(a) the Access Seeker side of the OFDF in the ASNAPOI in relation to the UCLL and UCLF Backhaul Services; and</li> <li>(b) the Access Seeker side of the data switch in the ASNAPOI in relation to the UBA Backhaul Service.</li> </ul>
<b>Chorus</b>	means the company that was demerged from Telecom on separation day in accordance with the demerger arrangement and includes any of its subsidiaries
<b>FDS</b>	means the UBA Service first data switch (or equivalent facility) in Chorus's Network where the Access Seeker is being supplied with, or may potentially be supplied with, the UBA Service
<b>FDS Handover Point</b>	means the Access Seeker side of the data switch in the FDS in relation to the UBA Backhaul Service
<b>Local Exchange</b>	means the Exchange at which the Access Seeker is being supplied with, or may potentially be supplied with, the UCLL Service
<b>OFDF</b>	means Chorus' Optical Fibre Distribution Frame
<b>Parent POI Site</b>	means: <ul style="list-style-type: none"> <li>(a) in relation to a Local Exchange, the POI Site to which that Local Exchange is connected for the purposes of routing the UCLL and UCLF Backhaul Service; or,</li> <li>(b) in relation to the FDS, the POI Site to which that FDS is connected for the purposes of routing the UBA Backhaul Service</li> </ul>
<b>POI Site</b>	means a point in Chorus' network at which the Access Seeker may interconnect for the purposes of the UCLL and UCLF Backhaul Service and the UBA Backhaul Service

<b>Primary Link</b>	means: <ul style="list-style-type: none"> <li>(a) that part of the UCLL and UCLF Backhaul Service between the local exchange handover point and the Parent POI Site; or</li> <li>(b) that part of the UBA Backhaul Service between the FDS Handover Point and the Parent POI Site</li> </ul>
<b>Secondary Link</b>	means: <ul style="list-style-type: none"> <li>(c) that part of the UCLL and UCLF Backhaul Service between the Parent POI Site and the ASNAPOI Handover Point; or</li> <li>(d) that part of the UBA Backhaul Service between the Parent Point of Interconnection Site and the ASNAPOI Handover Point</li> </ul>
<b>UBA</b>	means unbundled bitstream access
<b>UBA Service</b>	means that part of the UBA Service that is described as the 'enhanced unbundled bitstream access service' set out in section 4 of the UBA Service Description and that excludes that part of the UBA Service described as the 'basic unbundled bitstream access service'
<b>UBA STD or Decision 611</b>	means the standard terms determination for Chorus' unbundled bitstream access, dated 12 December 2007, and any amendments and clarifications to that standard terms determination
<b>UBA Backhaul STD</b>	means the standard terms determination for Chorus' unbundled bitstream access backhaul service, dated 27 June 2008, and any amendments and clarifications to that standard terms determination
<b>UCLF</b>	means unbundled copper low frequency
<b>UCLF STD</b>	means the standard terms determination for Chorus' unbundled copper low frequency service, dated 24 November 2011, and any amendments and clarifications to that standard terms determination
<b>UCLL</b>	means unbundled copper local loop
<b>UCLL STD</b>	means the standard terms determination for Chorus' unbundled copper local loop network, dated 7 November 2007, and any amendments and clarifications to that standard terms determination
<b>UCLL and UCLF Backhaul</b>	means the standard terms determination for Chorus' UCLL and

<b>STD</b>	UCLF Backhaul (telephone exchange to interconnect point), dated 27 June 2008, and any amendments and clarifications to that standard terms determination
<b>UCLL and UCLF Co-location STD</b>	means the standard terms determination for Chorus' UCLL and UCLF Co-location, dated 7 November 2007, and any amendments and clarifications to that standard terms determination
<b>UFB</b>	means ultra-fast broadband

## Executive summary

1. The Commerce Commission (the **Commission**) has undertaken a competition review, under section 30R of the Telecommunications Act 2001 (the **Act**), of the designated access services of Chorus':
  - unbundled copper local loop network backhaul and unbundled copper low frequency service backhaul service (telephone exchange to interconnection point) (**UCLL/UCLF Backhaul Service**), and
  - unbundled bitstream access backhaul service (**UBA Backhaul Service**).

This document provides the Commission's final Decisions.

2. Under the Act, Chorus must offer:
  - a regulated UCLL and UCLF Backhaul Service, as provided for in the UCLL and UCLF standard terms determination (**STD**), and/or
  - a regulated UBA Backhaul Service, as provided for in the UBA Backhaul standard terms determination (**STD**)

where Chorus faces limited, or is likely to face lessened, competition in the relevant markets.

3. The Commission is required to carry out periodic market reviews to assess whether Chorus faces limited, or is likely to face lessened, competition in those markets.
4. The relevant markets for the regulated backhaul service are separate wholesale markets for transmission capacity on:
  - each **Primary Link** of the UCLL/UCLF Backhaul and UBA Backhaul services, and
  - each **Secondary Link** of the UCLL/UCLF Backhaul and UBA Backhaul services.
5. The Commission has applied the competition conditions for the UCLL and UCLF Backhaul Service and the UBA Backhaul Service. In particular, the Commission has applied the criteria which it developed after consultation in the previous reviews of the UCLL/UCLF Backhaul<sup>1</sup> and UBA Backhaul<sup>2</sup> Services. The criteria are:
  - (a) subject to (d), Chorus does not face limited competition on Primary Links or Secondary Links where there are one or more other backhaul providers<sup>3</sup>
  - (b) where a nearby fibre-based network meets the near entrant criteria,<sup>4</sup> the network is considered a competitive constraint unless the operator has publically stated that

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<sup>1</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, Decision 706, 9 March 2011, pp8–9, para 44.

<sup>2</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul*, Decision 707, 23 March 2011, p9, para 46.

<sup>3</sup> That is, connected to the exchange.

it does not intend to, and will not in the near future, offer services to or from that local exchange

- (c) for those markets found to be markets in which Chorus does not face limited competition, Chorus is not likely to face lessened competition, and
  - (d) there are no additional market conditions present that may prevent effective competition from developing (for example, the absence of an appropriately specified and priced service that allows alternate backhaul providers to aggregate backhaul traffic from multiple access seekers from inside the exchange<sup>5</sup>).
6. For the purposes of this assessment the Commission has considered the wholesale markets for transmission capacity on each Primary Link of the UCLL /UCLF Backhaul and UBA Backhaul Services and the wholesale markets for transmission capacity on each Secondary Link of the UCLL/UCLF Backhaul and UBA Backhaul Services.
  7. On 5 July 2012 the Commission released its draft decision following the review of the designated backhaul services and invited submissions followed by cross-submissions.
  8. Submissions were received from Chorus, Telecom and Telstra Clear and a cross-submission from Chorus. These are published on the Commission's website at: <http://www.comcom.govt.nz/competition-review-of-uba-backhaul-and-ucll-backhaul-markets/>
  9. In its Backhaul Competition Review draft decision, the Commission considered that Telecom is a competitive constraint where it is connected to an exchange, or meets the near entrant criteria.
  10. Telecom in its submission and supplementary submission confirmed that where it has fibre that passes through an exchange on a national route, and where it has fibre that passes close to an exchange and potentially meets the near entrant criteria, it does not intend to offer backhaul services using its own fibre in these locations, during the period of this review. Accordingly the Commission does not regard Telecom as a constraint on Chorus on these links.
  11. The effect of Telecom's public statement is that 7 UCLL/UCLF Backhaul Primary and 5 UBA Backhaul Primary links that were regarded as competitive in the Commission's draft decision will remain subject to the terms and conditions of the relevant STDs.
  12. The Commission has assessed:
    - 215 UCLL/UCLF Backhaul Primary Links. The Commission's assessment is that Chorus does not face limited, and is unlikely to face lessened, competition on 171 of those links. The remaining 44 UCLL/UCLF Primary Links will remain subject to the terms and conditions of the UCLL/UCLF Backhaul STD

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<sup>4</sup> The near entrant criteria are: 2 km from a Chorus exchange for a fibre-based network with existing inter-city coverage and 1 km from a Chorus exchange for smaller networks with localised coverage. See Decision 626, p32, paras 112–113.

<sup>5</sup> Commerce Commission, Decision 707, 23 March 2011, p9, para 46(d).

- all 38 UCLL/UCLF Backhaul Secondary Links. The Commission's assessment is that Chorus does not face limited, and is unlikely to face lessened, competition on 36 UCLL/UCLF Backhaul Secondary Links. The remaining 2 links will remain subject to the terms and conditions of the UCLL/UCLF Backhaul STD
- all 62 UBA Backhaul Primary Links. The Commission's assessment is that Chorus does not face limited, and is unlikely to face lessened, competition on 42 of those links. The remaining 20 Primary Links will remain subject to the terms and conditions of the UBA Backhaul STD on the request of an access seeker
- all 38 UBA Backhaul Secondary Links. The Commission's assessment is that Chorus does not face limited, and is unlikely to face lessened, competition on 36 UBA Backhaul Secondary Links. The remaining 2 links will remain subject to the terms and conditions of the UBA Backhaul STD.

13. The Commission notes that a significant majority of assessed backhaul links are now competitive.

- In its first UCLL Backhaul STD competition review in 2008, the Commission determined that 37 assessed Primary and 22 UCLL Backhaul Secondary Links were competitive.<sup>6</sup> This compares with assessed 171 UCLL/UCLF Backhaul Primary and 36 UCLL/UCLF Backhaul Secondary Links in the current UCLL/UCLF review.
- In its first UBA Backhaul STD competition review in 2011, no links were determined to be competitive.<sup>7</sup> This compares with 42 Primary and 36 Secondary Links under the current review which are determined to be links where Telecom does not face limited, and is unlikely to face lessened, competition.

14. Of the links assessed by the Commission:

- 80%<sup>8</sup> of UCLL/UCLF Backhaul Primary Links are considered as competitive<sup>9</sup>
- 68%<sup>10</sup> of UBA Backhaul Primary Links are considered competitive
- 95%<sup>11</sup> of UCLL/UCLF and UBA Backhaul Secondary Links are considered competitive.

<sup>6</sup> Commerce Commission *Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnect point)* (Decision 626) p46.

<sup>7</sup> Commerce Commission Decision 707, 23 March 2011, p 9 para 48.

<sup>8</sup> That is 171 of 215 UCLL/UCLF Backhaul Primary links.

<sup>9</sup> The Commission has assessed 33% of all potential UCLL/UCLF Backhaul Primary Links (there are 649 potential UCLL/UCLF Backhaul Primary Links of which the Commission has assessed 215). Those UCLL/UCLF Backhaul Links not assessed by the Commission are links associated with exchanges have not been or are not forecast to be unbundled.

<sup>10</sup> That is 42 of 62 UBA Backhaul Primary links. The Commission has assessed all UBA Backhaul Primary links.

<sup>11</sup> That is 36 of 38 Secondary links. The Commission has assessed all Backhaul Secondary links.



## Introduction

16. On 27 June 2008, the Commerce Commission issued standard terms determinations (**STD**) under section 30M of the Telecommunications Act 2001 (the **Act**) concerning the designated access service of Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnect point) (**UCLL Backhaul Service**),<sup>12</sup> and the designated access service of Telecom's unbundled bitstream access backhaul (**UBA Backhaul Service**).<sup>13</sup>
17. On 24 November 2011, the Commission amended a number of STDs under section 30R of the Act in order to implement amendments made by the Telecommunications (TSO, Broadband, and Other Matters) Amendment Act 2011. The UCLL Backhaul Service STD was amended to provide transmission capacity between Chorus' local exchange and the access seeker's nearest available point of interconnection for both the UCLL and UCLF services. The amendments came into force on 30 November 2011.
18. On 15 March 2012, the Commission gave public notice<sup>14</sup> of its decision to commence a competition review under section 30R of the UCLL Backhaul STD and UBA Backhaul STD. Its Information Request is shown as **Attachment 1**.
19. Previous UCLL Backhaul competition review decisions were published by the Commission on 30 April 2009,<sup>15</sup> 3 December 2009,<sup>16</sup> and 9 March 2011.<sup>17</sup> A previous UBA Backhaul competition review decision was published by the Commission on 23 March 2011.<sup>18</sup>
20. The Commission concluded in its most recent decisions on UCLL Backhaul and UBA Backhaul services, published 9 March 2011 and 23 March 2011 respectively, that the similarities between the UCLL Backhaul Review and the UBA Backhaul Review meant that, in future, a combined review process should be undertaken for both services. Accordingly this review combines UCLL/UCLF Backhaul and UBA Backhaul services.
21. The regulated UCLL/UCLF Backhaul and UBA Backhaul Services provide transmission capacity between Chorus' telephone exchanges/data switches and the access seeker's nearest available point of interconnection. The regulated backhaul services are used to support the provision of retail products which are supplied by access seekers using either the UCLL/UCLF or UBA services, such as broadband and local access and calling services.

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<sup>12</sup> Commerce Commission, *Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnect point)*, 27 June 2008 (Decision 626).

<sup>13</sup> Commerce Commission, *Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul* (Decision 627).

<sup>14</sup> New Zealand Gazette, Notice 1598, 15 March 2012, page 1009.

<sup>15</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, 30 April 2009 (Decision 667).

<sup>16</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, 3 December 2009 (Decision 686).

<sup>17</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, 9 March 2011 (Decision 706).

<sup>18</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul*, 9 March 2011 (Decision 707).

22. The purchasers of the UCLL/UCLF Backhaul Service are access seekers who have unbundled exchanges. Similarly, the main purchasers of the UBA Backhaul Service are access seekers who are purchasing the unbundled bitstream access service at a given exchange.<sup>19</sup>
23. Chorus is the access provider for both the UCLL/UCLF Backhaul Service and the UBA Backhaul Service. Potential competitors to Chorus are alternative providers who own fibre networks and are able to supply backhaul services. For example, providers such as FX Networks, TelstraClear and Vector Communications are able to supply fibre-based backhaul services over routes covered by their transmission networks.
24. Chorus must offer a regulated UCLL/UCLF Backhaul Service if the Conditions set out in the Act apply. These Conditions are:

That either –

- (a) Chorus faces limited, or is likely to face lessened, competition in a market for transmission capacity between Chorus's local telephone exchange and the access seeker's nearest available point of interconnection; or
- (b) Chorus does not face limited, or is not likely to face lessened, competition in a market for transmission capacity between Chorus's local telephone exchange and the access seeker's nearest available point of interconnection, and the Commission has decided to require Chorus's unbundled copper local loop network backhaul (telephone exchange to interconnect point) to be wholesaled in that market.

25. Chorus must offer a regulated UBA Backhaul service if the conditions set out in the Act apply. These Conditions are:

That either –

- (a) Chorus faces limited, or is likely to face lessened competition in a market for transmission capacity between the first data switch (or equivalent facility) and the access seeker's nearest available point of interconnection; or
- (b) Chorus does not face limited, or is not likely to face lessened, competition in a market for transmission capacity between the first data switch (or equivalent facility) and the access seeker's nearest available point of interconnection, and the Commission has decided to require Chorus's unbundled bitstream access to be wholesaled in that market.

26. The Conditions for the UCLL/UCLF Backhaul and UBA Backhaul services require the Commission to identify the markets in which the UCLL/UCLF Backhaul and UBA Backhaul services respectively are supplied and to assess whether Chorus<sup>20</sup> (as successor to Telecom<sup>21</sup>), faces limited, or is likely to face lessened, competition in those markets.

<sup>19</sup> In 2011 Telecom was reported to have a 49% market share of the home internet market in New Zealand, followed by TelstraClear with 16%, Vodafone with 13%, CallPlus with 9%, Orcon with 5% and other providers 8%. Smith, P., Gibson, A., Crothers, C., Billot, J., Bell, A., (2011) *The Internet in New Zealand. 2011*, Auckland New Zealand: Institute of Culture, Discourse & Communication, AUT University, p4.

<sup>20</sup> Chorus is the Access Provider of the UCLL/UCLF Backhaul and UBA Backhaul services. Chorus is the company that was demerged from Telecom on separation day in accordance with the demerger arrangement approved by the Court pursuant to Part 15 of the Companies Act 1993.

<sup>21</sup> Telecom Corporation of New Zealand Limited.

27. The relevant markets for the UCLL/UCLF Backhaul Service were defined in the UCLL Backhaul STD. The Commission defined separate wholesale markets for transmission capacity on:<sup>22</sup>
- each Primary Link of the UCLL/UCLF Backhaul Service, and
  - each Secondary Link of the UCLL/UCLF Backhaul Service.
28. Similarly, the relevant markets for the UBA Backhaul Service are the wholesale markets for transmission capacity on:<sup>23</sup>
- each Primary Link of the UBA Backhaul Service, and
  - each Secondary Link of the UBA Backhaul Service.
29. An updated assessment of competition in the wholesale markets relevant to the UCLL/UCLF Backhaul and UBA Backhaul Services has been conducted in this review.
30. The Commission has applied the criteria which it developed after consultation in the previous reviews of the UCLL/UCLF Backhaul<sup>24</sup> and UBA Backhaul<sup>25</sup> services. The criteria are:
- (a) subject to (d), Chorus does not face limited competition on Primary Links or Secondary Links where there are one or more other backhaul providers<sup>26</sup>
  - (b) where a nearby fibre-based network meets the near entrant criteria,<sup>27</sup> the network is considered a competitive constraint unless the operator has publically stated that it does not intend to, and will not in the near future, offer services to or from that local exchange
  - (c) for those markets found to be markets in which Chorus does not face limited competition, Chorus is not likely to face lessened competition, and
  - (d) there are no additional market conditions present that may prevent effective competition from developing (for example, the absence of an appropriately specified and priced service that allows alternate backhaul providers to aggregate backhaul traffic from multiple access seekers from inside the exchange).<sup>28</sup>

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<sup>22</sup> A more detailed market definition for the UCLL Backhaul Service is contained in paragraphs 73 to 114 of the UCLL Backhaul STD (dated 27 June 2008).

<sup>23</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul*, Decision No. 70723 March 2011, page 9, paragraph 44.

<sup>24</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, Decision 706, 9 March 2011, pp8–9, para 44.

<sup>25</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul*, Decision 707, 23 March 2011, p9, para 46.

<sup>26</sup> That is, connected to the exchange.

<sup>27</sup> The near entrant criteria are: 2 km from a Chorus exchange for a fibre-based network with existing inter-city coverage and 1 km from a Chorus exchange for smaller networks with localised coverage. See Decision 626, p32, paras 112–113.

<sup>28</sup> Commerce Commission, Decision 707, 23 March 2011, p9, para 46(d).

## The Commission's draft decision

31. On 5 July 2012 the Commission released its draft decision following the review of the designated backhaul services invited submissions followed by cross-submissions.<sup>29</sup>
32. The following section sets out the key issues considered by the Commission in this review and set out in the Commission's draft decision.

### Market definition

33. The relevant markets for the regulated backhaul service are separate wholesale markets for transmission capacity on:
  - each **Primary Link** of the UCLL/UCLF Backhaul and UBA Backhaul, and
  - each **Secondary Link** of the UCLL/UCLF Backhaul and UBA Backhaul services.

### Application of assessment criteria

34. Given the similarities between the UCLL/UCLF Backhaul and UBA Backhaul services,<sup>30</sup> the Commission has applied the same criteria (set out above in paragraph 30) in determining whether or not Chorus faces limited, or is likely to face lessened, competition in the UCLL/UCLF Backhaul and the UBA Backhaul markets.
35. The Commission's view is that where a UCLL/UCLF Backhaul Link has been assessed as competitive, the UBA Backhaul Service that follows that equivalent link is also competitive, unless there are additional markets conditions present that may prevent effective competition from developing.

### Public Statements

36. The Commission considers that any operator that meets the near entrant criteria is a competitive constraint on Chorus unless it has publicly stated that it does not intend to connect to the exchange.
37. In the previous review, Christchurch City Networks Limited (trading as Enable Networks) submitted that it had no intention to connect to a number of exchanges in Christchurch as the business case made it not viable to do so.
38. Subsequently, Enable Networks won the contract to rollout the Government's Ultrafast Broadband Initiative in Christchurch and surrounding areas, and has provided the Commission with a list of exchanges that it would now connect to if requested by a customer.
39. As a result, in its draft decision the Commission considered Enable Networks to be a competitive constraint to Chorus on those links.

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<sup>29</sup> Commerce Commission *Review of the designated backhaul services* 5 July 2012.

<sup>30</sup> All UBA Backhaul first data switches are located in the same building as a UCLL/UCLF Backhaul Local Exchange Handover POINT, have the same Parent POI and are the same distance to the Parent POI. Secondary links also follow the same network topography for both backhaul services.

### Telecom is a constraint in the wholesale markets

40. As part of structural separation, new Telecom was allocated 50% of fibres designated for national or regional transport between Telecom exchanges, with all remaining fibres allocated to Chorus.<sup>31</sup> Telecom is able to use its fibres to offer backhaul services.
41. Telecom submitted that UCLL Backhaul and UBA Backhaul are a key part of its business and that it is active in the wholesale backhaul market.<sup>32</sup> In its submission it provided information on the wholesale backhaul products that it offers to customers. Telecom indicated that:
- Telecom Wholesale offers backhaul services to wholesale customers throughout New Zealand
  - it primarily uses the Wholesale National Transport (layer 1 service used to provide backhaul to UCLL) and Point to Point backhaul (a layer 2 service used to provide backhaul for UBA) products
  - when constructing a service for a customer, it uses a combination of Telecom and Chorus inputs to provide the service
42. Telecom also provided the Commission with further evidence of links where it currently provides backhaul services to wholesale customers.
43. TelstraClear noted that the arrangements between Telecom and Chorus are relatively new, and submitted that it had not yet seen any impact on the market from the separation of Chorus from Telecom.<sup>33</sup> However it also indicated that its view may change as the competitive dynamic between Chorus and Telecom became better understood.<sup>34</sup>
44. In its draft decision, the Commission noted a number of factors which may limit the degree of competitive constraint that Telecom places on Chorus:
- Telecom is a vertically-integrated service provider, because it is able to supply both wholesale backhaul services and downstream retail broadband services. This may limit Telecom's incentive to compete in the backhaul market (this issue was considered in the Commission's previous review of UCLL Backhaul in the context of TelstraClear<sup>35</sup>)
  - Telecom also relies on Chorus electronics to deliver competing backhaul services
  - some of the fibre laid was for purposes other than backhaul

<sup>31</sup> Telecom Corporation of New Zealand Ltd, Overview of the Asset Allocation Plan, <http://investor.telecom.co.nz/phoenix.zhtml?c=91956&p=irol-ufb>, p32.

<sup>32</sup> Telecom submission, *UCLL Backhaul and UBA Backhaul STDs – Request for information for competition review of links under section 30R of the Telecommunications Act 2001*, 27 April 2012, p1.

<sup>33</sup> TelstraClear submission, *UCLL Backhaul and UBA Backhaul STDs – Request for information for competition review of links under section 30R of the Telecommunications Act 2001*, 26 April 2012, para 12.

<sup>34</sup> Ibid, para 12.

<sup>35</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled bitstream access backhaul*, (Decision 707), 23 March 2011 pp5-6, paras 17-31.

- Telecom has indicated that there are a number of locations where Telecom has fibre which is on the national route and passes through specific links or location in transit to another location, **[Confidential Information (CI)]**.
- Telecom separated from Chorus less than 8 months ago and the effects of this separation are still to be fully reflected in the market.

45. Nevertheless, in its draft decision, the Commission considered that Telecom was a competitive constraint where was connected to an exchange, or met the near entrant criteria, (including where fibre passes through exchanges). No parties had indicated that Telecom was not a constraint on links on which it is supplied a backhaul service or had a network presence. The Commission considered that Telecom met the near entrant criteria on relevant links.<sup>36</sup>

46. The Commission’s preliminary view was that Chorus did not face limited, or is unlikely to face lessened, competition on any Primary or Secondary Link where only Chorus and Telecom are present. This applied on 14 UCLL/UCLF Backhaul Primary Links, 7 UBA Backhaul Primary Links, and 4 UCLF/UCLL and UBA Backhaul Secondary Links as indicated in **Tables 1-3** below.

**Table 1: UCLL/UCLF Backhaul Primary Links where Telecom is the sole potential competitor to Chorus**

Local Exchange	Parent POI	Local Exchange	Parent POI
[CI			
			]

<sup>36</sup> The near entrant criteria are: 2 km from a Chorus exchange for a fibre-based network with existing inter-city coverage and 1 km from a Chorus exchange for smaller networks with localised coverage. See Decision 626, p32, paras 112–113. An operator with an inter-city network qualifies as a competitive constraint on links on which it has a network presence within 2kms from an exchange, regardless of whether or not it is currently supplying UCLL/UCLF and UBA Backhaul Services at those locations, unless it has publicly stated that it does not intend to, and will not in the near future, offer services to or from that local exchange.

**Table 2: UBA Backhaul Primary Links where Telecom is the sole potential competitor to Chorus**

First Data Switch (FDS)	Parent POI	First Data Switch (FDS)	Parent POI
[CI			
			]

**Table 3: UCLF/UCLL and UBA Backhaul Secondary Backhaul Links where Telecom is the sole potential competitor to Chorus**

Parent POI	Parent POI
[CI	
	]

**Additional market conditions present that may prevent effective competition from developing**

47. In the previous competition review, the Commission found that Telecom (as the access provider at that time) faced limited competition on all UBA Backhaul Primary and Secondary Links due to the inability of alternate backhaul providers to efficiently aggregate UBA Backhaul with other backhaul traffic.
48. In this review, the Commission has asked respondents if there are additional market conditions present that may prevent effective competition from developing.
49. Chorus submitted in response to the Commission’s Information Request that there were no longer any additional market conditions preventing competition from developing.<sup>37</sup> Chorus noted that its “Exchange Space” service allowed aggregation of multiple traffic types and service providers within the exchange.<sup>38</sup>
50. TelstraClear submitted in its response to the Commission’s Information Request that it had previously been unable to directly connect its backhaul customers UCLL and interconnect footprint with TelstraClear’s UCLL footprint within the exchange.<sup>39</sup>
51. The Commission requested further information from Chorus regarding its “Exchange Space” service, including co-location and interconnection costs, to determine if the service resolved the issues previously raised by alternate backhaul providers.
52. In its draft decision, the Commission concluded that this service allows an alternate backhaul provider to interconnect with other UBA and UCLL customers in order to provide a shared backhaul link over one fibre. Further, an alternate backhaul provider with an

<sup>37</sup> Chorus submission, *UCLL Backhaul and UBA Backhaul STDs – Request for information for competition review of links under section 30R of the Telecommunications Act 2001*, 27 April 2012, p3, para 8.

<sup>38</sup> Chorus submission, *UCLL Backhaul and UBA Backhaul STDs – Request for information for competition review of links under section 30R of the Telecommunications Act 2001*, 27 April 2012, p3, para 7.

<sup>39</sup> TelstraClear submission, *UCLL Backhaul and UBA Backhaul STDs – Request for information for competition review of links under section 30R of the Telecommunications Act 2001*, 26 April 2012, para 5.

existing UCLL footprint can convert this space to an “Exchange Space” footprint to allow interconnection with other traffic types.

53. As a result, the Commission was satisfied in its draft decision that the physical limitations of the previous commercial co-location service have been addressed. In addition, the Commission considered that the price charged by Chorus for their “Exchange Space” service was unlikely to materially prevent competition from developing in the UBA backhaul markets.

### Submissions to the Commission’s draft decision

54. Submissions were received from Chorus, Telecom and TelstraClear and a cross-submission from Chorus. These are published on the Commission’s website at: <http://www.comcom.govt.nz/competition-review-of-uba-backhaul-and-ucll-backhaul-markets/>. A summary of key points is provided as **Attachment 6**.
55. In its Backhaul Competition Review draft decision, the Commission considered that Telecom is a competitive constraint where it is connected to an exchange, or meets the near entrant criteria.
56. Telecom in its submission and supplementary submission confirmed that where it has fibre that passes through an exchange on a national route, and where it has fibre that passes close to an exchange and potentially meets the near entrant criteria, it does not intend to offer backhaul services using its own fibre in these locations, during the period of this review.
57. In its draft decision, the Commission indicated that it intended to undertake a review of designated backhaul services in 2013, but invited comment on the point at which a high proportion of links that are competitive would lead to a view that the market should be assessed on a regional or national, rather than link by link basis. Chorus and Telecom provided comment which will be taken into account in the 2013 review of backhaul designated services.

### The Commission’s final decision

58. The Commission notes Telecom’s public statements in its submission and supplementary submission that where it has fibre that passes through an exchange, and where it has fibre that passes close to an exchange and potentially meets the near entrant criteria, it does not intend to offer backhaul services using its own fibre in these locations, during the period of this review. Because of Telecom’s public statement the Commission is of the view that Telecom is not a competitive constraint on the relevant backhaul links.
59. Accordingly Telecom does not meet the near entrant criteria on 27 UCLL/UCLF Backhaul Primary and 12 UBA Backhaul Primary Links that are the subject of this public statement and that were previously assessed as meeting the near entrant criteria in the Commission’s draft decision. These links are indicated in **Tables 4** and **5**.
60. In the case of 7 of these UCLL/UCLF Backhaul Primary and 5 of these UBA Backhaul Primary links, Telecom was assessed as being the sole competitor to Chorus in the Commission’s draft decision. These links now remain subject to the terms and conditions of the relevant STDs because Telecom is no longer considered to be a constraint on Chorus.



**Table 4: UCLL/UCLF Backhaul Primary Links affected by Telecom’s public statement**

Local Exchange	Parent POI	Local Exchange	Parent POI
[CI			
			]

**Table 5: UBA Backhaul Primary Links affected by Telecom’s public statement**

First Data Switch (FDS)	Parent POI	First Data Switch (FDS)	Parent POI
[CI			
			]

61. Other than the links subject to Telecom’s public statements, the Commission’s competition assessment in its draft decision is confirmed as its final decision.

**UCLL/UCLF Backhaul Primary Links**

- 62. In the previous review, the Commission reviewed 168 UCLL Backhaul Primary Links and found that Telecom did not face limited, and was unlikely to face lessened, competition on 127 of those links.
- 63. The Commission has assessed 215 UCLL/UCLF Backhaul Primary Links as part of the current review. The Commission’s view is that Chorus does not face limited, and is unlikely to face lessened, competition on 171 of those links. The remaining 44 UCLL/UCLF Backhaul Primary Links will remain subject to the terms and conditions of the UCLL/UCLF STD.
- 64. Of the 215 UCLL/UCLF Primary Links assessed by the Commission, 47 were assessed for the first time. The Commission’s view is that Chorus does not face limited, and is unlikely to face lessened, competition on 34 of those Primary Links.

65. **Table 6** lists the fibre network operators that the Commission considers to be a constraint on Chorus on UCLL/UCLF Primary Links, where the Commission has found that Chorus does not face limited competition, and is unlikely to face lessened, competition.

**Table 6: Fibre network operators that the Commission considers to be a competitive constraint on UCLL/UCLF links assessed as not limited**

<b>Fibre network operator</b>	<b>Number of links on which fibre network operator is a constraint</b>	<b>Number of links subject to regulation previously, now competitive, on which fibre network operator is a constraint</b>
Telecom	93	23
TelstraClear	88	21
FX Networks	50	12
Vector	36	1
Unison Fibre	3	2
Network Tasman	5	2
Enable Networks	10	2
Invernet	2	2
Smartlinx	3	0
Velocity Networks	6	0
Northpower	4	0

66. **Table 7** below lists the 44 Primary Links that the Commission has determined Chorus faces limited competition on (links assessed for the first time are marked with an asterisk (\*)). These links remain subject to the terms and conditions of the UCLL/UCLF Backhaul STD.

**Table 7: UCLL/UCLF Backhaul Primary Links assessed where Chorus faces limited competition**

Local Exchange	Parent POI	Local Exchange	Parent POI
Kaitaia	Kerikeri	Otamauri	Napier
Maungatapere*	Whangarei	Waimarama	Napier
Onerahi*	Whangarei	Wairoa	Napier
Hibiscus Coast	Torbay	Patutahi*	Napier
Matakana	Torbay	Spotswood*	New Plymouth
Waiaatarau	Henderson	Oakura*	New Plymouth
Waiheke	Howick	Opunake*	New Plymouth
Whitford	Howick	Maxwells Line*	Palmerston North
Waiau Pa	Papakura	Upper Moutere	Nelson
Waiuku	Papakura	Hokitika	Greymouth
Cambridge	Hamilton	Westport	Greymouth
Coromandel	Hamilton	Darfield	Riccarton
Tairua	Hamilton	Little River	Christchurch
Thames	Hamilton	Sumner	Christchurch
Mangakino*	Hamilton	Kurow	Timaru
Pacific View*	Tauranga	Alexandra	Cromwell
Kawerau*	Tauranga	Ranfurly	Cromwell
Te Puna*	Tauranga	Roxburgh	Cromwell
Welcome Bay	Tauranga	Twizel	Cromwell
Ngongataha*	Rotorua	Andersons Bay*	Dunedin
Haumoana	Napier	Te Anau	Invercargill
Matawai	Napier	Tuatapere	Invercargill

67. The competition classification of all UCLL/UCLF Backhaul Primary Links as assessed by the Commission is shown in **Attachment 2**.

#### **UCLL/UCLF Backhaul Secondary Links**

68. In the previous review, the Commission determined that 6 of the 38 Secondary Links remain subject to regulation under the UCLL/UCLF Backhaul STD because (old) Telecom faced limited competition on those 6 links.
69. In this review, the Commission has reviewed all 38 UCLL/UCLF Backhaul Secondary Links.
70. As a result of this analysis, the Commission has determined that 4 UCLL/UCLF Backhaul Secondary Links out of the 6 that were subject to regulation previously are now competitive. The Commission's view is that Chorus does not face limited, and is unlikely to face lessened, competition on the UCLL/UCLF Backhaul Secondary Links between:
- Kerikeri and Whangarei
  - Whangarei and Torbay
  - Greymouth and Nelson
  - Greymouth and Riccarton.

71. As a result, those links are no longer subject to the terms and conditions of the UCLL/UCLF Backhaul STD. The classification of all UCLL/UCLF Backhaul Secondary Links is shown in **Attachment 3**.
72. Two UCLL/UCLF Secondary Links are subject to regulation under the UCLL/UCLF Backhaul STD. Those links are located between:
- Cromwell and Christchurch
  - Cromwell and Invercargill.

### Consequential amendment to the UCLL/UCLF Backhaul STD

73. An amendment to Schedule 5 of the UCLL/UCLF Backhaul STD is required to insert a revised Appendix B “UCLL and UCLF Backhaul POI Site Related Information”. This is provided as **Attachment 3** to this draft decision. The Commission has also published separately a complete copy of the updated Schedule 5 along with this decision.

### UBA Backhaul Primary Links

74. The Commission has applied the assessment criteria to all 62 UBA Backhaul Primary Links as part of the review, and has determined that Chorus does not face limited, and is unlikely to face lessened, competition on 42 of those links.
75. **Table 8** below lists those links where the Commission has determined that Chorus faces limited competition. These links remain subject to the terms and conditions of the UBA Backhaul STD.

**Table 8: UBA Backhaul Primary Links where Chorus faces limited competition**

FDS	Parent POI	FDS	Parent POI
Kaitaia	Kerikeri	Darfield	Riccarton
Helensville	Henderson	Akaroa	Christchurch
Waiheke	Howick	Fairlie	Timaru
Coromandel	Hamilton	Kurow	Timaru
Tairua	Hamilton	Alexandra	Cromwell
Thames	Hamilton	Ranfurly	Cromwell
Wairoa	Napier	Roxburgh	Cromwell
Hokitika	Greymouth	Twizel	Cromwell
Reefton	Greymouth	Te Anau	Invercargill
Westport	Greymouth	Tuatapere	Invercargill

76. **Table 9** lists the fibre network operators that the Commission considers to be a constraint on UBA Primary Links where the Commission has found that Chorus does not face limited competition, and is unlikely to face lessened, competition.

**Table 9: Fibre network operators that the Commission consider to be a competitive constraint on UBA links assessed as not limited**

Fibre network operator	Number of links on which fibre network operator is a constraint
Telecom	27
TelstraClear	20
FX Networks	23
Vector	2
Network Tasman	1

77. The competition assessment of all UBA Backhaul Primary Links as assessed by the Commission is shown in **Attachment 4** to this draft decision.

#### **UBA Backhaul Secondary Links**

78. The Commission has assessed all 38 UBA Backhaul Secondary Links as part of the review. The Commission has determined that Chorus faces limited competition on 2 of those links. As a result, the following 2 Secondary Links remain subject to the terms and conditions of the UBA Backhaul STD:

- Cromwell and Christchurch
- Cromwell and Invercargill

79. The classification of all UBA Backhaul Service Secondary links is shown in **Attachment 5** to this draft decision.

#### **Consequential amendment to the UBA Backhaul STD**

80. An amended Schedule 5 to the UBA Backhaul STD specifying the Primary and Secondary Links is published separately. The Schedule details where Chorus is required to supply the UBA Backhaul Service on the request of an access seeker, a list of POI Sites for interconnection to the UBA Backhaul Service, and a list of the radial distances for Primary Links and Secondary Links.

Dated at Wellington this 5 day of October 2012



Dr Stephen Gale  
Telecommunications Commissioner  
Commerce Commission

## Attachment 1: Information request

1. On 16 March 2012,<sup>1</sup> the Commission wrote to interested parties advising of the formal commencement of the reviews of competition in the backhaul markets and requesting information to inform assessments of competition.
2. In its letter to interested parties the Commission indicated that:
  - because of the similarities of the UCLL Backhaul and UBA Backhaul services, the Commission would be conducting the assessments of both services concurrently
  - it would assess the state of competition on UCLL Backhaul Primary Links associated with all unbundled, or forecast to be unbundled, exchanges as well as a random sample of other Primary Links, and all UCLL Backhaul Secondary Links
  - it would assess the state of competition on all UBA Backhaul Primary and Secondary Links
  - the analysis would determine whether Chorus, as the access provider for the UCLL/UCLF Backhaul and UBA Backhaul services, faces limited, or is likely to face lessened, competition in the relevant markets for those Primary and Secondary Links
  - it was interested in the potential affect of the structural separation of Telecom on competition in backhaul markets. The Commission noted that on separation, new Telecom was allocated 50% of fibres designated for national or regional transport between new Telecom exchanges, with all remaining fibres allocated to new Chorus. The Commission is interested in the potential affect on competition of this split and the sharing arrangements between Chorus and Telecom.
3. The Commission provided interested parties with a table of all UCLL Backhaul and UBA Backhaul Primary and Secondary Links to be assessed and, where relevant, the previous assessment of competition status for each link. To inform the Commission's assessment of each link, specific reasons and supporting evidence were requested to be provided:
  - (a) that another backhaul provider was connected to that exchange
  - (b) that a nearby fibre-based network met the near entrant criteria, and had not publically stated that it did not intend to, and would not in the near future, offer services to or from that local exchange
  - (c) of any market conditions present that may materially affect competition from developing on that link.
4. Information in response to the Commission's information request was received from Callplus, Chorus, FX Networks, Network Tasman, Northpower Fibre, Telecom, TelstraClear,

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<sup>1</sup> Commerce Commission, *Unbundled Copper Local Loop (UCLL Backhaul) and Unbundled Bitstream Access Backhaul (UBA Backhaul) – request for information for competition review of links under section 30R of the Telecommunications Act 2001*. <http://www.comcom.govt.nz/competition-review-of-uba-backhaul-and-ucll-backhaul-markets/>

Vector, Enable Networks, and Ultrafast Fibre. This information has informed the Commission's views in this Decision.<sup>2</sup> All public information provided is available on the Commission's website.

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<sup>2</sup> The Commission also consulted the National Broadband Map (<http://koordinates.com/maps/BroadbandMap/collections/>) to inform itself of market competitors.

**Attachment 2: list of UCLL/UCLF Primary Links considered by the review decision, and the Commission’s updated view on competition<sup>1</sup>**

<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Kaitaia	Kerikeri	Limited
Dargaville	Whangarei	Not Limited
Hikurangi	Whangarei	Not Limited
Kamo	Whangarei	Not Limited
Kensington	Whangarei	Not Limited
Ruakaka	Whangarei	Not Limited
Onerahi	Whangarei	Limited
Maungatapere	Whangarei	Limited
Oakleigh	Whangarei	Not Limited
Albany	Torbay	Not Limited
Browns Bay	Torbay	Not Limited
Forrest Hill	Torbay	Not Limited
Greenhithe	Torbay	Not Limited
Hibiscus Coast	Torbay	Limited
Matakana	Torbay	Limited
Red Beach	Torbay	Not Limited
Warkworth	Torbay	Not Limited
Birkdale	Glenfield	Not Limited
Birkenhead	Glenfield	Not Limited
Devonport	Glenfield	Not Limited
Takapuna	Glenfield	Not Limited
Glen Eden	Henderson	Not Limited
Massey	Henderson	Not Limited
Te Atatu	Henderson	Not Limited
Titirangi	Henderson	Not Limited
Waiatarau	Henderson	Limited
Whenuapai	Henderson	Not Limited
Ellerslie	Remuera	Not Limited
Glendowie	Remuera	Not Limited
St Heliers	Remuera	Not Limited
Tamaki	Remuera	Not Limited
Mt Wellington	Remuera	Not Limited
Airedale Street	Auckland Central	Not Limited
Mayoral Drive	Auckland Central	Not Limited
Mount Eden	Auckland Central	Not Limited
Ponsonby	Auckland Central	Not Limited

<sup>1</sup> The reference to “not limited” in column three refers to the requirement that Telecom does not face limited, or is not likely to face lessened, competition in a market for transmission capacity between Chorus’s local telephone exchange and the access seeker’s nearest available point of interconnection. The reference to “limited” in column three refers to the requirement that Telecom faces limited, or is likely to face lessened, competition in a market for transmission capacity between Chorus’s local telephone exchange and the access seeker’s nearest available point of interconnection.



<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Avondale	Mount Albert	Not Limited
Blockhouse Bay	Mount Albert	Not Limited
Mount Roskill	Mount Albert	Not Limited
New Lynn	Mount Albert	Not Limited
Three Kings	Mount Albert	Not Limited
Pakuranga	Howick	Not Limited
Waiheke	Howick	Limited
Whitford	Howick	Limited
Bombay	Papakura	Not Limited
Manurewa	Papakura	Not Limited
Pukekohe	Papakura	Not Limited
Tuakau	Papakura	Not Limited
Waiau Pa	Papakura	Limited
Waiuku	Papakura	Limited
East Tamaki	Papatoetoe	Not Limited
Manakau City	Papatoetoe	Not Limited
Mangere	Papatoetoe	Not Limited
Onehunga	Papatoetoe	Not Limited
Otahuhu	Papatoetoe	Not Limited
Otara	Papatoetoe	Not Limited
Brymer	Hamilton	Not Limited
Cambridge	Hamilton	Limited
Claudelands	Hamilton	Not Limited
Coromandel	Hamilton	Limited
Flagstaff	Hamilton	Not Limited
Frankton	Hamilton	Not Limited
Hamilton East	Hamilton	Not Limited
Matamata	Hamilton	Not Limited
Melville	Hamilton	Not Limited
Pokeno	Hamilton	Not Limited
Raglan	Hamilton	Not Limited
Tairua	Hamilton	Limited
Te Awamutu	Hamilton	Not Limited
Te Kauwhata	Hamilton	Not Limited
Te Kuiti	Hamilton	Not Limited
Te Rapa	Hamilton	Not Limited
Thames	Hamilton	Limited
Turangi	Hamilton	Not Limited
Whatawhata	Hamilton	Not Limited
Morrinsville	Hamilton	Not Limited
Ngaruawahia	Hamilton	Not Limited
Tokoroa	Hamilton	Not Limited
Huntly	Hamilton	Not Limited
Mangakino	Hamilton	Limited

<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Bethlehem	Tauranga	Not Limited
Maungatapu	Tauranga	Not Limited
Mount Maunganui	Tauranga	Not Limited
Otumoetai	Tauranga	Not Limited
Papamoa	Tauranga	Not Limited
Te Puke	Tauranga	Not Limited
Te Ranga	Tauranga	Not Limited
Waihi Beach	Tauranga	Not Limited
Welcome Bay	Tauranga	Limited
Whakatane	Tauranga	Not Limited
Katikati	Tauranga	Not Limited
Pacific View	Tauranga	Limited
Kawerau	Tauranga	Limited
Waihi	Tauranga	Not Limited
Te Puna	Tauranga	Limited
Omokoroa	Tauranga	Not Limited
Taupo	Rotorua	Not Limited
Lynmore	Rotorua	Not Limited
Ngongataha	Rotorua	Limited
Bay View	Napier	Not Limited
Clive	Napier	Not Limited
Dannevirke	Napier	Not Limited
Flaxmere	Napier	Not Limited
Gisborne	Napier	Not Limited
Hastings	Napier	Not Limited
Haumoana	Napier	Limited
Havelock North	Napier	Not Limited
Marewa	Napier	Not Limited
Matawai	Napier	Limited
Otamauri	Napier	Limited
Taradale	Napier	Not Limited
Waimarama	Napier	Limited
Waipukurau	Napier	Not Limited
Wairoa	Napier	Limited
Waipawa	Napier	Not Limited
Otane	Napier	Not Limited
Patutahi	Napier	Limited
Hawera	New Plymouth	Not Limited
Bell Block	New Plymouth	Not Limited
Spotswood	New Plymouth	Limited
Frankleigh Park	New Plymouth	Not Limited
Waitara	New Plymouth	Not Limited
Inglewood	New Plymouth	Not Limited
Oakura	New Plymouth	Limited

<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Opunake	New Plymouth	Limited
Stratford	New Plymouth	Not Limited
Bunnythorpe	Palmerston North	Not Limited
Ohakune	Palmerston North	Not Limited
Pahiatua	Palmerston North	Not Limited
Wanganui	Palmerston North	Not Limited
Maxwells Line	Palmerston North	Limited
Feilding	Palmerston North	Not Limited
Kelvin Grove	Palmerston North	Not Limited
John F Kennedy	Palmerston North	Not Limited
Turitea	Palmerston North	Not Limited
Paraparaumu	Porirua	Not Limited
Tawa	Porirua	Not Limited
Waikanae	Porirua	Not Limited
Eastbourne	Naenae	Not Limited
Featherston	Naenae	Not Limited
Lower Hutt	Naenae	Not Limited
Masterton	Naenae	Not Limited
Petone	Naenae	Not Limited
Upper Hutt	Naenae	Not Limited
Blenheim	Wellington	Not Limited
Courtenay Place	Wellington	Not Limited
Hataitai	Wellington	Not Limited
Island Bay	Wellington	Not Limited
Johnsonville	Wellington	Not Limited
Kelburn	Wellington	Not Limited
Khandallah	Wellington	Not Limited
Wellington South	Wellington	Not Limited
Motueka	Nelson	Not Limited
Richmond	Nelson	Not Limited
Stoke	Nelson	Not Limited
Upper Moutere	Nelson	Limited
Tahunanui	Nelson	Not Limited
Brightwater	Nelson	Not Limited
Hokitika	Greymouth	Limited
Westport	Greymouth	Limited
Avonhead	Riccarton	Not Limited
Canterbury Technology Park	Riccarton	Not Limited
Darfield	Riccarton	Limited
Fendalton	Riccarton	Not Limited
Hillmorton	Riccarton	Not Limited
Islington	Riccarton	Not Limited
Lincoln	Riccarton	Not Limited
Harewood	Riccarton	Not Limited

<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Hallswell	Riccarton	Not Limited
Memorial Ave	Riccarton	Not Limited
Middleton	Riccarton	Not Limited
Rangiora	Riccarton	Not Limited
Rolleston	Riccarton	Not Limited
Woodend	Riccarton	Not Limited
Ashburton	Christchurch	Not Limited
Beckenham	Christchurch	Not Limited
Belfast	Christchurch	Not Limited
Burwood	Christchurch	Not Limited
Culverden	Christchurch	Not Limited
Kaikoura	Christchurch	Not Limited
Kaiopoi	Christchurch	Not Limited
Linwood	Christchurch	Not Limited
Little River	Christchurch	Limited
Mount Pleasant	Christchurch	Not Limited
New Brighton	Christchurch	Not Limited
Papanui	Christchurch	Not Limited
Shirley	Christchurch	Not Limited
St Albans	Christchurch	Not Limited
Sumner	Christchurch	Limited
Kurow	Timaru	Limited
Oamaru	Timaru	Not Limited
Alexandra	Cromwell	Limited
Queenstown	Cromwell	Not Limited
Ranfurlly	Cromwell	Limited
Roxburgh	Cromwell	Limited
Twizel	Cromwell	Limited
Wanaka	Cromwell	Not Limited
Balclutha	Dunedin	Not Limited
Mosgiel	Dunedin	Not Limited
Palmerston	Dunedin	Not Limited
South Dunedin	Dunedin	Not Limited
Green Island	Dunedin	Not Limited
Halfway Bush	Dunedin	Not Limited
Mornington	Dunedin	Not Limited
North East Valley	Dunedin	Not Limited
Andersons Bay	Dunedin	Limited
Corstophine	Dunedin	Not Limited
Maori Hill	Dunedin	Not Limited
Gore	Invercargill	Not Limited
Lumsden	Invercargill	Not Limited
Te Anau	Invercargill	Limited
Tuatapere	Invercargill	Limited

<b>Local Exchange</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Invercargill East	Invercargill	Not Limited
Invercargill South	Invercargill	Not Limited
Waikiwi	Invercargill	Not Limited

### Attachment 3: revised Appendix B to Schedule 5 “UCLL and UCLF Backhaul POI Site Related Information” of the UCLL and UCLF Backhaul STD

#### Primary Links

Subject to the terms of the UCLL and UCLF Backhaul Service Description, the table below shows the Primary Links on which Chorus must supply the UCLL and UCLF Backhaul Service at the request of the Access Seeker:

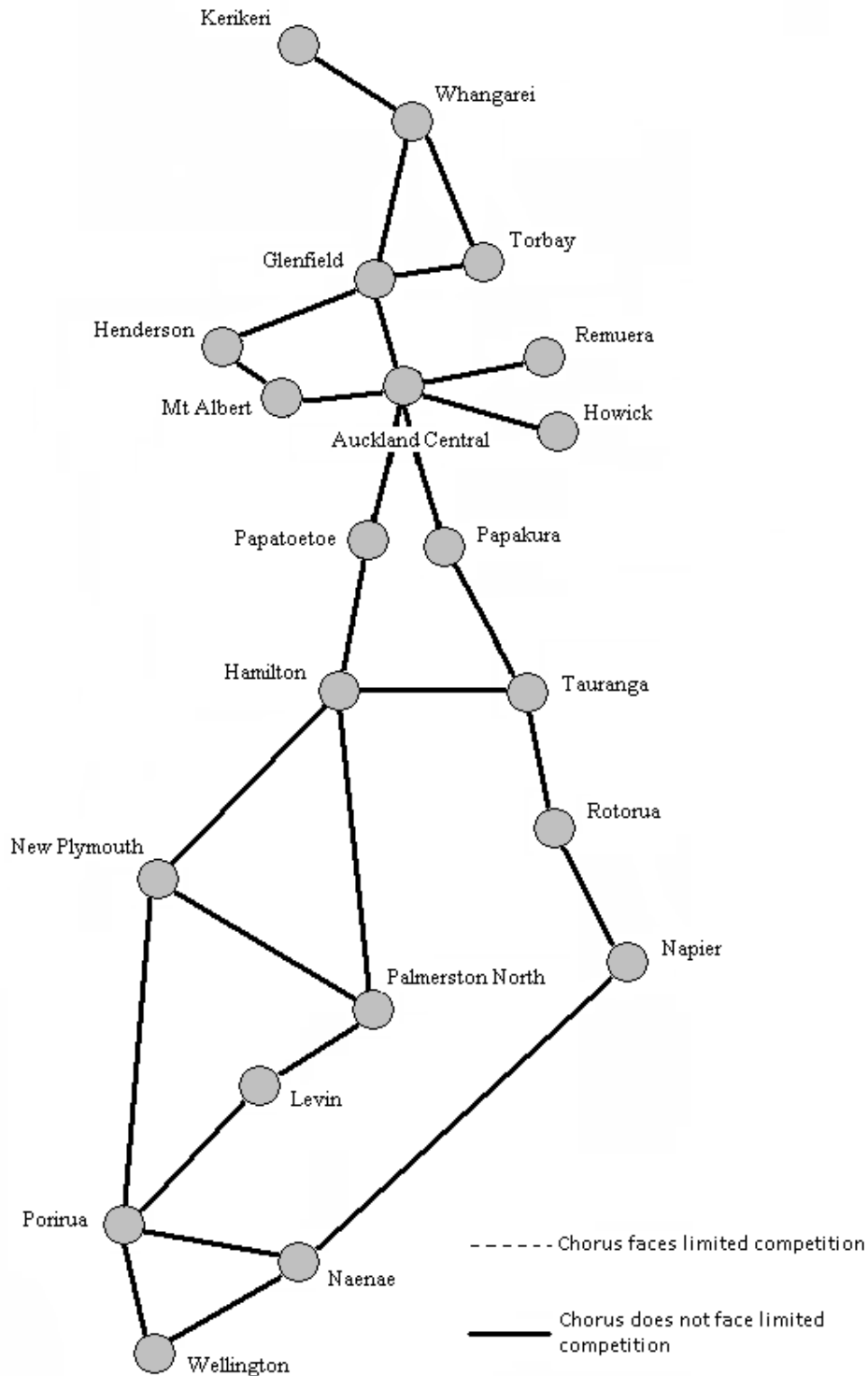
Local Exchange	Parent POI
Kaitaia	Kerikeri
Maungatapere	Whangarei
Onerahi	Whangarei
Hibiscus Coast	Torbay
Matakana	Torbay
Waiatarau	Henderson
Waiheke	Howick
Whitford	Howick
Waiau Pa	Papakura
Waiuku	Papakura
Cambridge	Hamilton
Coromandel	Hamilton
Mangakino	Hamilton
Tairua	Hamilton
Thames	Hamilton
Pacific View	Tauranga
Kawerau	Tauranga
Te Puna	Tauranga
Welcome Bay	Tauranga
Ngongataha	Rotorua
Haumoana	Napier
Matawai	Napier
Otamauri	Napier
Patutahi	Napier
Waimarama	Napier
Wairoa	Napier
Spotswood	New Plymouth
Oakura	New Plymouth
Opunake	New Plymouth
Maxwells Line	Palmerston North
Upper Moutere	Nelson
Hokitika	Greymouth
Westport	Greymouth
Darfield	Riccarton

<b>Local Exchange</b>	<b>Parent POI</b>
Little River	Christchurch
Sumner	Christchurch
Kurow	Timaru
Alexandra	Cromwell
Ranfurly	Cromwell
Roxburgh	Cromwell
Twizel	Cromwell
Andersons Bay	Dunedin
Te Anau	Invercargill
Tuatapere	Invercargill

## Secondary Links

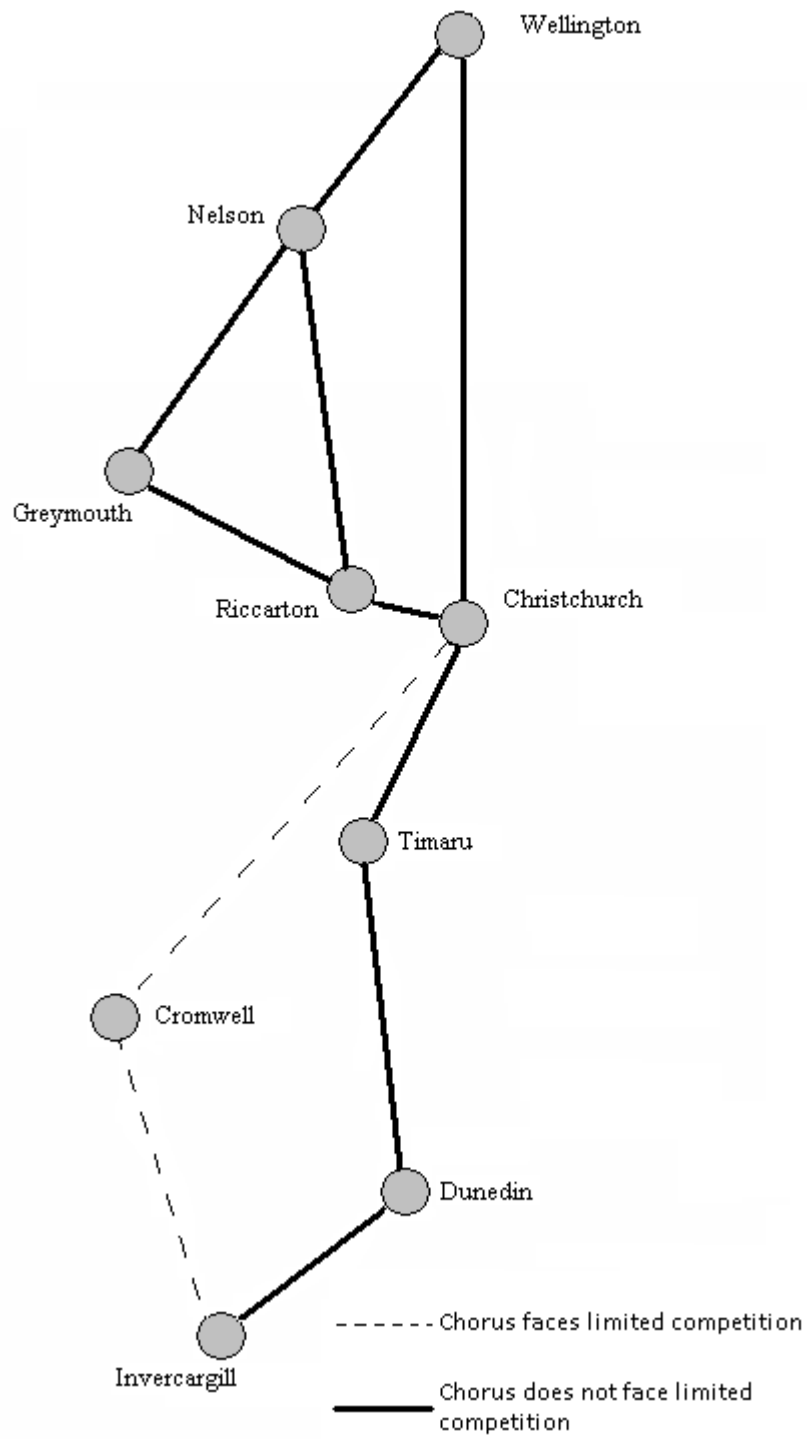
Subject to the terms of the UCLL and UCLF Backhaul Service Description, the diagrams below show the Secondary Links where the UCLL and UCLF Backhaul Service must be supplied by Chorus at the request of the Access Seeker and where Chorus is not required to supply the UCLL and UCLF Backhaul Service:

North Island:





South Island:



**Attachment 4: list of all UBA Backhaul Primary Links considered by the review decision, and the Commission’s updated view on competition<sup>1</sup>**

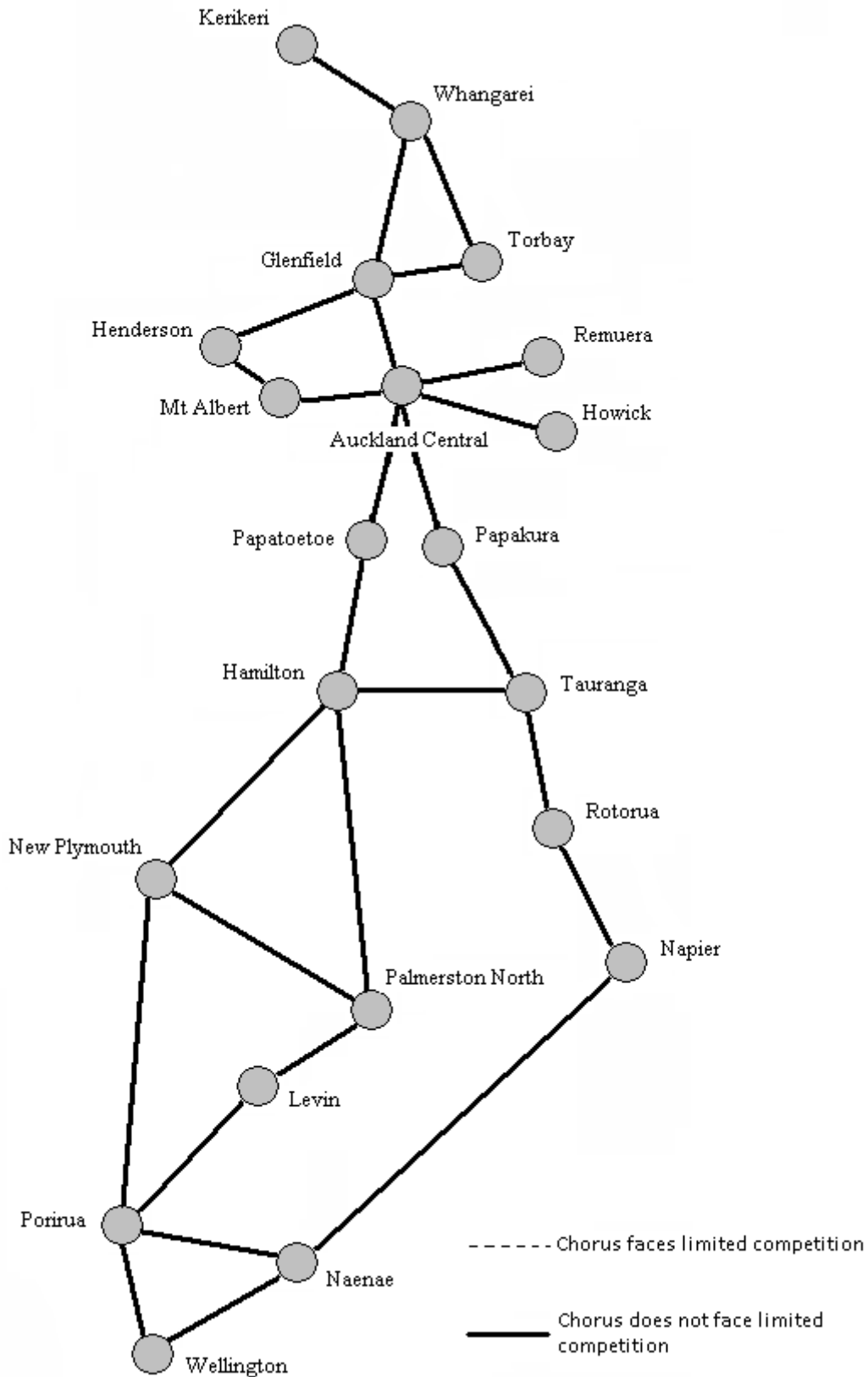
<b>First data switch</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Kaitaia	Kerikeri	Limited
Dargaville	Whangarei	Not Limited
Red Beach	Torbay	Not Limited
Warkworth	Torbay	Not Limited
Wellsford	Torbay	Not Limited
Helensville	Henderson	Limited
Mayoral Drive	Auckland Central	Not Limited
Waiheke	Howick	Limited
Coromandel	Hamilton	Limited
Matamata	Hamilton	Not Limited
Tairua	Hamilton	Limited
Te Kauwhata	Hamilton	Not Limited
Te Kuiti	Hamilton	Not Limited
Thames	Hamilton	Limited
Turangi	Hamilton	Not Limited
Taumarunui	Hamilton	Not Limited
Mt Maunganui	Tauranga	Not Limited
Whakatane	Tauranga	Not Limited
Taupo	Rotorua	Not Limited
Dannevirke	Napier	Not Limited
Gisborne	Napier	Not Limited
Hastings	Napier	Not Limited
Waipukurau	Napier	Not Limited
Wairoa	Napier	Limited
Hawera	New Plymouth	Not Limited
Ohakune	Palmerston North	Not Limited
Pahiatua	Palmerston North	Not Limited
Wanganui	Palmerston North	Not Limited
Taihape	Palmerston North	Not Limited
Paraparaumu	Porirua	Not Limited
Featherston	Naenae	Not Limited
Masterton	Naenae	Not Limited

<sup>1</sup> The reference to “not limited” in column three refers to the requirement that Telecom does not face limited, or is not likely to face lessened, competition in a market for transmission capacity between Chorus’s local telephone exchange and the access seeker’s nearest available point of interconnection. The reference to “limited” in column three refers to the requirement that Telecom faces limited, or is likely to face lessened, competition in a market for transmission capacity between Chorus’s local telephone exchange and the access seeker’s nearest available point of interconnection.

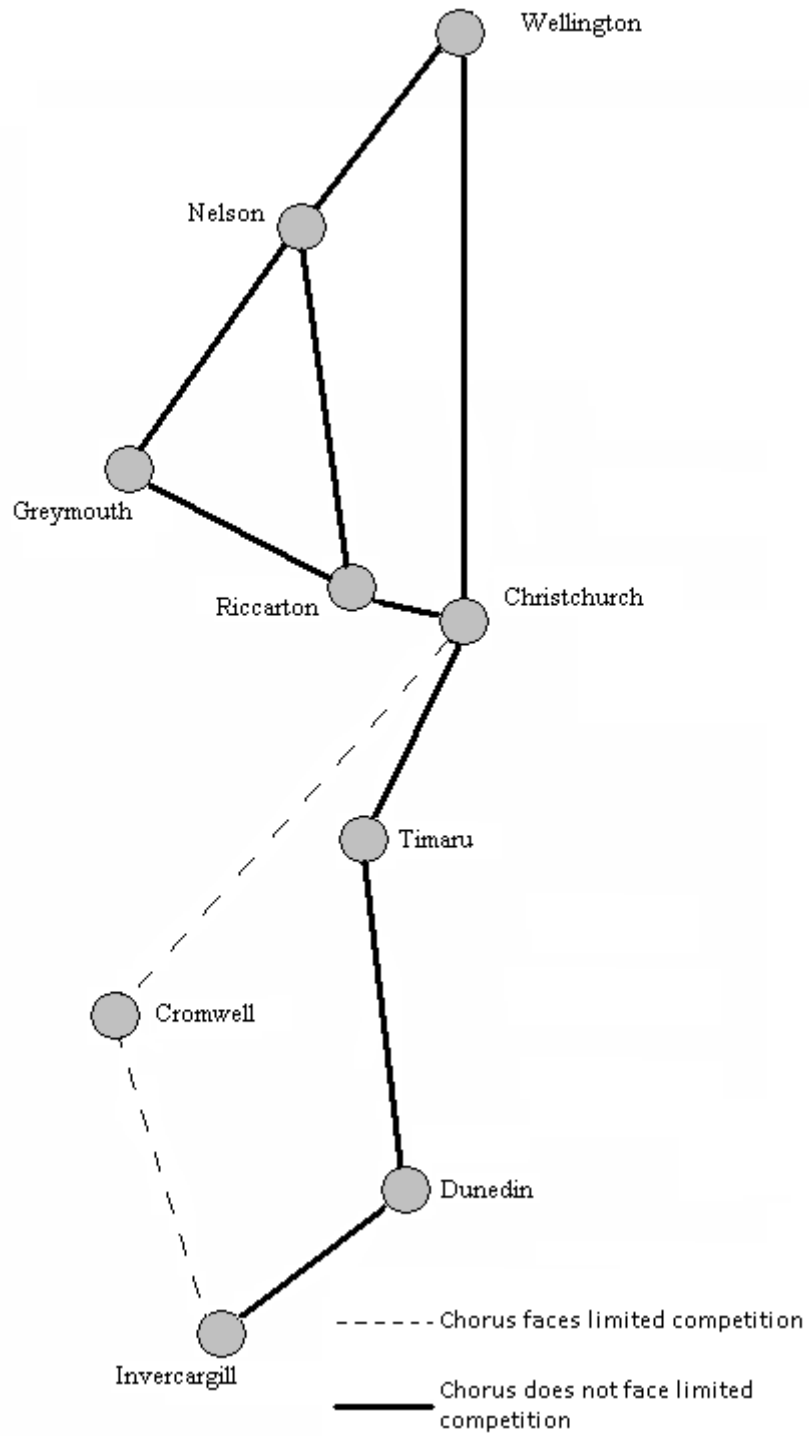
<b>First data switch</b>	<b>Parent POI</b>	<b>Assessment of competition status</b>
Upper Hutt	Naenae	Not Limited
Blenheim	Wellington	Not Limited
Motueka	Nelson	Not Limited
Hokitika	Greymouth	Limited
Westport	Greymouth	Limited
Reefton	Greymouth	Limited
Darfield	Riccarton	Limited
Rangiora	Riccarton	Not Limited
Rolleston	Riccarton	Not Limited
Ashburton	Christchurch	Not Limited
Culverden	Christchurch	Not Limited
Kaikoura	Christchurch	Not Limited
Akaroa	Christchurch	Limited
Amberley	Christchurch	Not Limited
Kurow	Timaru	Limited
Oamaru	Timaru	Not Limited
Fairlie	Timaru	Limited
Temuka	Timaru	Not Limited
Alexandra	Cromwell	Limited
Queenstown	Cromwell	Not Limited
Ranfurly	Cromwell	Limited
Roxburgh	Cromwell	Limited
Twizel	Cromwell	Limited
Wanaka	Cromwell	Not Limited
Balclutha	Dunedin	Not Limited
Palmerston	Dunedin	Not Limited
Gore	Invercargill	Not Limited
Lumsden	Invercargill	Not Limited
Te Anau	Invercargill	Limited
Tuatapere	Invercargill	Limited

## Attachment 5: Map of all UBA Backhaul Secondary Links considered by the review decision, and the Commission's updated view on competition

North Island:



South Island:



## Attachment 6 Key points made in submissions to the draft decision

### Telecom

- Going forward, the Commission should continue to undertake its analysis on an individual link basis, in order to identify any bottlenecks.
- Telecom does not believe that in exchanges where it has fibre passing through the exchange, and where it has indicated that it currently does not have intention of offering services using its own fibre during the period of the review, it is likely to pose a competitive constraint on Chorus.
- The Commission should provide greater certainty on how it expects non-discrimination to apply in deregulated markets.
- The Commission should outline its process for re-regulation, including the treatment of complaints by service providers regarding commercial conduct by Chorus.

### Chorus

- Chorus supports the Commission's draft review decisions.
- Chorus agrees that the backhaul market has evolved over time which supports a move to review on a national or regional basis.
- Chorus suggests that secondary links should be treated as a national market and are competitive.
- Chorus suggests that primary links be treated as regional markets. This would require the Commission defining (i) the regional markets (ii) the threshold for regarding the regional market as competitive.

### TelstraClear

- TelstraClear indicates broad agreement with Commission's conclusions expressed in the draft decision.
- TelstraClear notes that the Commission is confident that Chorus' Exchange Space product provides a solution to previous co-location issues. TelstraClear indicates it has outstanding concerns regarding the availability of this service and will raise these with the Commission should they not be resolved.

### Chorus cross-submission

- Chorus notes that the Commission had previously stated that any operator who met the near-entrant criteria would be considered a competitive constraint' unless it made a public statement that it does not intend to connect to the exchange. Chorus questions whether such a public statement remains an appropriate threshold. Specifically this is in the context

of Telecom indicating [in its submission] that it does not intend to offer services using its own fibre from certain exchanges, that these links should not be considered competitive.

- Chorus notes TelstraClear's concerns regarding co-location but that the issues were resolved with the introduction of its [commercial] Exchange Space service.
- In response to Telecom's query regarding how the Commission will identify and review competition concerns following deregulation, Chorus indicated that no additional reporting requirements are necessary.