ENABLE NETWORKS LIMITED AND ULTRAFAST FIBRE LIMITED

SUBMISSION ON NZCC FIBRE INFORMATION DISCLOSURES DRAFT DECISIONS REASONS PAPER DATED 27 MAY 2021

8 JULY 2021

PUBLIC VERSION

1. Introduction

1.1 This submission is made by Enable Networks Limited (**Enable**) and Ultrafast Fibre Limited (**Ultrafast Fibre**) (collectively referred to in this submission as **we** or **us**) in response to the Commerce Commission's (**Commission**) *Fibre Information Disclosures Draft Decisions Reasons Paper* dated 27 May 2021 (**Reasons Paper**).

1.2 In our submission (with Northpower Fibre Limited) on the Commission's November 2018 consultation paper on Part 6[1] we submitted that:[2]

> ***Unlike Part 4 industries, the telecommunications sector is "uniquely competitive"***
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> *Part 6 of the Act introduces a form of utility-style regulation that is currently applied to energy networks and airports under Part 4, all of which have been determined to be natural monopolies which face little or no competition. Those competitive environments are far removed from what the Discussion Document describes as "the unique competitive landscape of telecommunications".*
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> *The Commission's starting point should accordingly be that the broadband access market is already workably competitive, and its process should be to determine what parts of the Part 4 framework can relevantly be applied in that context, rather than using previous decisions it has made under Part 4 as its starting point.*

1.3 This principle remains paramount for us. We understood they were also accepted by the Commission when it acknowledged in its Emerging Views Paper[3] (**EVP**) that "*we can use our experience in applying Part 4 to inform our application of Part 6 but must always take the specific characteristics of the telecommunications sector and the structure and language of Part 6 into account when we make our decisions*";[4] and that the Commission's decisions under Part 4 "*cannot in any way substitute for our decisions under Part 6 and our Part 6 IMs decisions must stand on their own merits taking account of the actual competitive landscape*".[5]

1.4 The Commission says that in making the Draft Fibre Information Disclosure Determination 2021 (**Draft Determination**) it has drawn from other information disclosure (**ID**) precedents "*while remaining cognisant of differences in the technological and market contexts*".[6] There is however no discussion in the Reasons Paper of the technological differences between the telecommunications sector and the industries regulated under Part 4 and no assessment of the actual competitive landscape in the telecommunications sector. Despite the Commission's statement in the EVP that the relevance of Part 4 precedent is something that needs to be assessed on a case by case basis,[7] there is no evidence in the Reasons Paper of any such assessment being made.

1.5 It is therefore not surprising that the ID requirements proposed in the Draft Determination (other than for quality which are not a feature of Part 4) in many respects replicate, or are more onerous than, the

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[1] NZCC *New Regulatory framework for fibre consultation document* 9 November 2018

[2] *Response of Enable Networks, Ultrafast Fibre and Northpower Fibre to Commerce Commissions consultation questions* 21 December 2018 p3

[3] NZCC *Fibre regulation emerging views: Technical Paper* 21 May 2019 (**EVP**)

[4] EVP [8]

[5] EVP [15]

[6] Reasons paper [3.4.1]

[7] EVP [14]

requirements under Part 4. No consideration is evident in the Reasons Paper of the competitiveness of the telecommunications sector or the differences between a newly built fibre network and the electricity and gas networks regulated under Part 4. Indeed, a large part of the requirements for telecommunications fibre networks appear to be simply a "cut and paste" from the ID requirements for electricity distribution businesses, with in one case the reference to electricity distribution remaining in the Draft Determination.[8] As a result the disclosure requirements are not fit for purpose.

1.6 We also submitted[9] in 2018 that regulation must be proportionate:

> *It is a fundamental principle of regulation that the burden of regulatory rules should be proportionate to the expected benefit and potential harm.[10] The Commission must, in making decisions under Part 6, take account of the relatively small size of the three LFCs, and their limited geographic footprint, to ensure that the regulatory burden imposed on them is proportionate.*

1.7 The Commission claims that it has "*limited the draft ID requirements where we consider the benefit to interested persons does not justify the compliance costs*".[11] It is not clear from the Reasons Paper where, apart from quality,[12] a cost/benefit analysis has been undertaken. The Commission says it has been "*mindful of the costs of the new disclosure requirements on regulated providers and ultimately on end-users*",[13] wrongly assuming that we can simply pass through whatever compliance costs are imposed on us to end-users.

1.8 As we have previously submitted, we face intense competition from unregulated vertically-integrated providers of fixed wireless access seekers (**FWA**)[14]. According to the Commission's 2019 market monitoring report, FWA then accounted for 11% of total broadband connections. Vodafone has since released 5G FWA and expressed an intention to migrate 25% of its customers to FWA over the next two to three years,[15] while Spark has reported a 25% increase in FWA customers in 2020 and plans to move 30% to 40% of its current fixed line broadband customers to FWA over the next 18 months.[16] Vodafone advertises its 5G FWA Broadband service to consumers as "*super new, super-fast*" with "*download speeds of up to 750 Mbps (that's up to 7x faster than our Fibre 100 broadband plan*" for $69 per month.

1.9 This marketing reflects the strong competition we face. In addition, as wholesale only providers, any attempt by us to pass these costs onto our retail customers would only further encourage them to promote their FWA alternative. Competitive pricing constraints prevent us from passing through increased compliance costs to end-users

1.10 Accordingly, any disproportionate increase in these costs will simply tilt the playing field even more in the favour of our FWA competitors (who can therefore be expected to be advocating for even greater regulatory oversight). MBIE noted in its first consultation on the new regulatory regime that "*where possible, policies and regulation should be platform and technology neutral to support digital innovation*

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[8] Draft Determination, item 15 Schedule 14

[9] *Response of Enable Networks, Ultrafast Fibre and Northpower Fibre to Commerce Commissions consultation questions* 21 December 2018 p3

[10] MBIE, Regulating Communications in the Future, September 2015, p24

[11] Reasons Paper [X16.4]

[12] Reasons Paper [5.106]

[13] Reasons Paper [X16]

[14] Enable and Ultrafast Fibre *Submission on NZCC competition risks consultation* 25 February 2021 (**Competition Submission**) [2.3], [2.4]

[15] NZ Herald *Vodafone NZ first to go big with 5G wireless* 22 February 2021

[16] NZ Herald *Wireless ambition, Spark has begun migrating its fixed-line broadband users en masse to fast in-house technology, cutting UFB out of the loop* 25 February 2021

and respond to technical change".[17] The Commission should be conscious that the technology specific Part 6 regime is already distorting competition in favour of unregulated FWA providers, and the Draft Determination will increase that distortion.

1.11 It is important for the Commission to recognise that this is a new regime, and a staged approach is necessary. Our fibre networks are new and less complex than electricity networks. We are relatively small businesses compared to Chorus. The level of disclosure required by the Draft Determination is more detailed than needed to meet the s186 requirements for ID and has not been adequately justified in the Reasons Paper.

1.12 As we have previously submitted, the ID requirements for the first regulatory period should:

(a) establish a baseline set of data to assess future performance;

(b) be proportionate (the benefits to access seekers or end-users must justify the costs to regulated providers).

(c) be sufficient to assess performance but not excessive;

(d) recognise they will be refined over time, which may require transitional, one-off disclosures in addition to annual disclosure requirements; and

(e) implement the input methodologies (**IM**).

1.13 In that context, we identify in this submission where the requirements in the Draft Determination do not meet the s186 purpose, or are excessive, disproportionate, or unachievable. We recommend alternatives that are proportionate but at the same time ensure that sufficient information is readily available to interested persons to assess whether the purposes of Part 6 (efficiency, innovation, meeting end-user demands, sharing efficiency gains, efficiency-promoting prices and earning an appropriate return) are being met.

2. Regulatory Framework

2.1 We agree that

(a) the purpose of ID is to ensure that sufficient information is readily available to interested parties to assess whether the purposes of Part 6 is being met;

(b) interested persons encompasses a broad range of persons;

(c) information disclosed should be sufficient to make informed decisions; and

(d) information disclosed should be consistent, accessible and understandable.

2.2 We do not agree that the Draft Determination achieves these objectives.

2.3 While we agree "*interested persons*" covers a broad range of stakeholders, the Commission's disclosure requirements seem to be designed specifically for market analysts with specialist knowledge and resources to interrogate the data. As a result, for the majority of interested persons the data requested is excessive (rather than sufficient) and confusing. This will make it very difficult for most stakeholders to make any informed assessment of the performance of our businesses, contrary to the purpose of ID set out in s186.

[17] Ministry of Business, Innovation and Employment *Regulating communications for the future: Review of the Telecommunications Act 2001* (September 2015) at 24.

2.4 We agree that s 188(3)(d) allows the Commission to set ID requirements that require disclosure of information to the Commission only, in addition to the power in s222 to grant exemptions on application of a regulated provider. [18] We would expect that the ID Determination would specify that any information that in the normal course of business would be regarded as commercially sensitive (including forecasts, innovations and targets) should be disclosed only to the Commission in accordance with s188(3)(d). We would face an unreasonable compliance burden if we were required to invoke the s 222 process in relation to each item of commercially sensitive information.

2.5 It would be unacceptable to us for this information to be disclosed in any form to our competitors. This is an example of a situation where the Commission must have regard to "*the actual competitive landscape*" for telecommunications and depart from the Part 4 framework. Requiring us to disclose our commercially sensitive information to our competitors would not "*promote workable competition on the merits*"[19] but would instead "*distort competition in telecommunications markets*"[20]. In this context the promotion of workable competition in telecommunications markets for the long term benefit of end-users of telecommunications services is relevant, and the Commission must give effect to this under s166(2)(b) to ensure we are not required to disclose our commercial sensitive information to our competitors.

3. ID Requirements

3.1 Proportionality

(a) In Section 4 we have proposed additional circumstances (for example capex project, cost allocation, and related party transaction information) where materiality thresholds can be applied. This will reduce the compliance burden on LFCs to a proportionate level without compromising the objective of providing sufficient information to assess the performance of FFLAS providers.

3.2 Reliance on precedents

(a) While the Commission claims that it has "sought to minimise compliance costs and complexity" by drawing on existing LFC ID requirements under Part 4AA of the Act as well as Part 4 of the Commerce Act 1986[21], and Crown Infrastructure Partners Limited (**CIP**) ID requirements [22] the Draft Determination simply replicates Part 4 requirements that are not necessarily relevant for fibre networks. In Section 4 we propose alternatives to remove the inappropriate features of the Part 4 model and draw more from the existing information disclosure reporting requirements for LFCs.

3.3 Format of reporting

(a) The proposed disclosures are predominantly formatted as spreadsheet templates for quantitative information. While this is a useful format for certain information (such as historical or forecast financial information), it is less useful for information which is business specific, qualitative, uncertain, requires explanatory context, or for which an industry or regulatory standard does not exist.

(b) In Section 4 we have made alternative suggestions for those template proposals that we consider are not workable or will require an unjustifiable level of effort to complete. We have also suggested alternatives where we consider an alternative approach will better meet the

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[18] Reasons Paper [2.55]

[19] Reasons Paper [2.40]

[20] Reasons Paper [2.40]

[21] Reasons Paper [3.4.1]

[22] Reasons paper [3.4.2]

s186 purpose. This includes the S14 Mandatory Explanatory Disclosures which we consider too broad, resulting in a disjointed set of disclosures which will make it difficult for stakeholders to assess the performance of FFLAS providers.

(c) Our alternatives are proposed for the first regulatory period. We acknowledge that it may be possible to work towards a more standardised template approach over time as the FFLAS businesses mature and the regulatory regime becomes more established.

(d) We also note that the format of the spreadsheet templates is not conducive to automating data entry because there are empty columns within the input sections of most of the templates. The template design should be reconsidered from this perspective to reduce the cost and complexity of compliance.

3.4 Balance dates

(a) We are pleased that the Draft Determination incorporates disclosure years for each LFC that reflect our respective financial balance dates. This approach avoids the complexity and additional compliance costs associated with reporting year end regulatory and statutory disclosures at different times and over different periods.

3.5 Transitional provisions

(a) We support transitional provisions for the first regulatory period to allow time for LFCs to implement the necessary reporting and assurance processes and establish regulatory information sources. However, we submit that the proposed 2022 transitional provisions are not sufficient.

(b) The disclosure proposals are a substantial set of requirements that will not be finalised until late in the 2021 calendar year. As Ultrafast Fibre has a 31 March balance date, and Enable has a 30 June balance date, the proposals provide insufficient time from the publication of the final determination for either entity to prepare, audit, certify and disclose the 2022 information.

(c) There will be considerable work involved in the initial audit because information from December 2011 onwards will need to be prepared and audited. This time series of historical information is required for the regulatory asset base (**RAB**), financial loss asset (**FLA**), Crown financing and regulatory tax components of the IMs. In addition, auditors will need extra time for the first audit against the ID Determination, as they will need to invest significant time in understanding the new IMs, and the extended scope of the information to be disclosed.

(d) In addition, all FFLAS providers will be required to establish a year end cut-off at December 2021, in order to create the regulatory starting position at Implementation Date. This is not a normal process for the LFCs.

(e) We note that Chorus will not disclose its 2022 year end information until May 2023, and therefore has considerably more time to prepare. Chorus has also already established its proposed initial RAB as part of the price-quality path (**PQ**) process. This has not yet occurred for the LFCs.

(f) As the 2022 year end disclosures are less meaningful for Ultrafast Fibre and Enable because they will represent regulatory performance of only 3 months (for Ultrafast Fibre) and 6 months (for Enable) we submit that it is essential that the part-year disclosures be deferred until the respective 2023 year end disclosures are made. The timelines in the Draft Determination will not otherwise be achievable in a complete, certified and audited form.

We also note that there is a potential disclosure gap after the current form 2021 disclosures have been made. We suggest that the current disclosures are rolled forward one more year to 2022 to address this gap.

3.6 Timing of disclosures

(a) We support annual disclosure of historical information within 5 months of each LFC's year end, with deferral of the 2022 disclosures to 2023, as discussed above.

(b) We do not support quarterly reporting of monthly pricing and quality information. This frequency is unnecessary for assessing our performance against the s162 Purpose Statement, imposes a considerable compliance burden on us, and as explained later in this submission, creates issues for audit and certification.

(c) Our alternative proposal is to publish pricing and quality information annually with the historical financial information. The financial performance and supporting information can then be assessed along with the pricing and quality information. Our compliance processes will be considerably more cost effective as a result.

(d) We support disclosure of planning information at the beginning of the disclosure year, with transitional provisions for 2022. We have proposed a number of amendments to the proposed forecast disclosures to better reflect the FFLAS sector in Section 4 of this submission.

3.7 Audit and certification of disclosures

(a) We support director certification of disclosed information, and the proposed standardised format for the certificates. However, we have a number of concerns with the proposals:

(i) Schedule 18 requires directors to certify that sufficient appropriate records have been retained in support of the disclosure information. As we have noted throughout this submission, the Draft Determination includes substantial information that is not used within our businesses and which we do not currently report on. Accordingly, it will not be possible for directors to comply with the certification requirements. Our proposed alternative disclosures, if accepted, will address much of this problem, because our suggestions better reflect the information we retain in our businesses.

(ii) Schedule 18 includes specific signoff on related party transactions. As explained later in this submission, related party transactions are not a significant feature of the FFLAS sector. This carry over from Part 4 regulation of the energy networks does not reflect the specific characteristics of the telecommunications sector. There is no justification for FFLAS providers to be required to provide specific certification for related party transactions when there is no specific certification for any other element of the year end disclosures. This proposed requirement is disproportionate.

(iii) Directors have a duty of care, consistent with good governance practice, to ensure the information they certify is accurate and complies with the relevant regulations. They will not be able to certify information that is to be audited in the future because that information may alter following audit unless audit procedures are undertaken prior to each certification of historical information subject to audit. This is not a practical option due to auditor availability, the limited time available, and the additional compliance and related costs that would be involved. Accordingly, the timing of the certifications must be aligned to the audit sign-off at year end.

(iv) As stated above, we do not support quarterly reporting of S20 or S25 as we don't consider this is necessary to meet the s186 purpose of ID. However, if quarterly reporting is retained, quarterly certification should not be required.

(v) Certification cannot be completed within one month of the disclosure period, as proposed for quarterly reporting of S20 and S25. This does not allow sufficient time for the information to be prepared, reviewed, reported and certified. Our proposed alternative, which is to report on an annual basis, resolves this issue.

(b) We support audit of financial year end disclosures. However:

(i) The clause 2.5.1 (1) assurance standard is unlikely to be met for 2022 because the proposed initial disclosures are too early, and the information required is not consistent with our current business information. Our proposed solution is to delay the 2022 year end disclosure, and to modify the disclosure requirements to better reflect our business information and reporting systems.

(ii) The specific assurance statements on related party transactions, proposed under clause 2.5.1(1)(d), and the additional assurance required under clauses 2.5.2 – 2.5.5 should be deleted. These are disproportionate for the FFLAS sector.

(iii) There is no proposal for audit sign-off on the initial RAB at Implementation Date. Given the complexity in the valuation IM, including establishing the FLA, and the importance of the valuation to the regulatory financial performance of the regulated FFLAS entities, we suggest this be included as a transitional disclosure requirement

3.8 Commission only disclosures and exemptions

(a) Commercially sensitive information, including forecast information, must be Commission-only disclosures under s188(c) given the level of competition in the market. We should not be put to the cost of applying for exemptions under s222 when it is clear from the "competitive landscape" that disclosure of any commercially sensitive information would be inappropriate.

(b) As regulatory financial information is subject to audit, the fact that commercially sensitive information is disclosed only to the Commission will not have a material impact on the effectiveness of ID regulation.

4. Disclosure Content

4.1 Historical financial disclosures

(a) Consistent with our earlier comments, we submit that Schedules 1-9 include information which is more detailed than required to meet the s186 purpose of ID, and the proposed disclosures have not been adequately justified in the Reasons Paper.

(b) The proposed approach to financial disclosures does not meet the purpose of ID because it does not allow interested persons to readily assess the performance of a FFLAS provider with reference to the s162 Purpose Statement. The proposed Schedules include a significant number of intermediate calculations, but very few output measures. The intermediate calculations are consistent with those that auditors will examine to ensure the IMs have been applied correctly, but in focussing on these intermediate steps, the Draft Determination is overly weighted towards compliance by FFLAS providers rather than assessment by interested persons.

(c) What is missing from the Schedules are financial output measures (other than ROI), which would help interested parties understand whether each LFC's performance is consistent with the s162 Purpose Statement. Measures such as opex/capex per connection, capex/RAB, renew and maintain capex/depreciation are straight forward measures which are easily understood, and allow for performance monitoring, between LFCs and over time.

(d) We therefore submit that a simplified set of financial schedules would better meet the s186 purpose of ID, particularly for the initial regulatory period. The current disclosure provisions provide useful precedents which we believe can be adopted in order to meet the s186 purpose of ID, and which will significantly reduce the implementation cost and complexity of the proposed new disclosure regime.

(e) Our detailed comments on Schedules 1-9, and the supporting information to be disclosed are set out in the following table, along with our suggested alternative disclosures:

Table 1: Historical financial disclosures

Proposed Disclosure	**LFC Response**	**Alternative or Amended Disclosure**
S1(iii) Monthly ROI and clauses 2.3.15 and 2.3.16	The difference between monthly and annual ROIs is not material for FFLAS services which are provided and billed continuously over the year, and where assets are built and commissioned incrementally during the year. Accordingly, we submit that this requirement introduces unnecessary complexity. The proposed materiality threshold is not sufficient to address this concern because additional calculations must be undertaken to test whether the threshold for monthly ROI is met.	This disclosure requirement should be removed from S1 and clauses 2.3.15 and 2.3.16 removed from the Draft Determination.
S2(i) Regulatory Profit	The regulatory profit statement incorrectly omits the asset stranding allowance. An explicit allowance, to be included as a revenue building block was provided for Chorus in the IM decisions. It was acknowledged that LFCs may choose to incorporate their own allowance when setting target revenues[23]. It is therefore appropriate that a stranding allowance input is included in the regulatory profit schedule for Chorus and the LFCs.	Insert stranding allowance in S2(i), below the operating surplus sub-total.
S2(iii) Merger and Acquisition Expenditure	We submit that there is little reason to call out one sub-category of expenses in S2 because S14 requires information to be disclosed about items which have a material impact on regulatory profit.	Remove disclosure of merger and acquisition expenditure from S2. The requirement to describe any merger and acquisition expenses in Schedule 14 is sufficient.
S4(i) Regulatory Asset Base	There is no disclosure of the initial RAB at implementation date in the Draft Determination. This appears to be an omission for LFCs, as there is a separate process for Chorus for establishing its initial RAB. Under Part 4 there were transitional disclosures, with specific certification and audit requirements, when the initial opening RABs were determined. These were implemented via s53ZD Notices[24] as the ID Determinations had not been issued at that time. Given the complexity of the FLA component, and the adjustments which must be made to GAAP asset	Transitional disclosures are included for establishing, disclosing, certifying and auditing the initial RABs of LFCs at Implementation Date.

[23] Commerce Commission, Fibre IMs Main Final Decisions Paper, 13 October 2020, para 6.1240

[24] EDB Notice was dated 16 March 2011

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
	register data to meet the IM rules, the determination of the opening RABs will be a substantial exercise for LFCs, which will require specific audit and Director attention before 2022 disclosures can be completed. Given the significance of the RAB values to the financial disclosures, it is important that these values are robust and specified in the appropriate format given the RAB roll forward requirements that will apply in future years.	
S4(iii) to S4(v) Unallocated RAB components	We consider that the requirement to disclose the unallocated depreciation, works under construction (**WUC**) and revaluation is unnecessary and confusing for stakeholders. It is not information which directly impacts regulatory profit or other regulatory financial performance measures. There is sufficient information about the allocation of assets between regulated and unregulated services in S4a and S4(ii) which provides the necessary insights into the application of the cost allocation IM on the RAB.	Remove the unallocated RAB information in columns M and N in sections 4(iii), (4iv) and 4(v) of S4. This will reduce complexity and therefore assist stakeholders in assessing performance of each LFC.
S4(vii) RAB by Asset Category	The requirement to disclose the RAB roll forward at the detailed category level is not supported. Asset base information has not been retained in this format and the LFCs have no business reason to capture it this way. Our current disclosure format is sufficient to achieve the s186 purpose. Fibre network asset components are highly integrated, which is a key difference between FFLAS services and electricity and gas networks. Fibre networks are largely passive (L1) or active (L2) and this distinction should be the primary focus of any RAB breakdown. As the RAB is derived from GAAP information, we submit that the ID should follow GAAP principles, adopting a level of disaggregation which can be applied consistently across LFCs, and draws on the existing Part 4AA disclosure requirements which have applied to each LFC since 2012. Our alternative proposal provides a disaggregated view which is consistent with the core design of our networks and our current disclosures. It reflects the actual composition of the network by focussing on the asset categories which are most material to the RAB.	Adopt the following asset categories for the RAB: • Layer 1; • Layer 2; • Other network assets; • Non network assets; and • FLA.
S4a Asset Allocations and clause 2.3.17	The proposed asset categories are too granular. They are also unnecessary as the allocation outcomes will be materially consistent within the Layer 1 subcategories and the Layer 2 subcategories for each LFC. This is a different situation to Chorus. Therefore, the LFC disclosure requirements can be specified to better reflect the characteristics of our networks. Accordingly,	Adopt the same asset categories as submitted for S4(vii).

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
	S4a should be amended to reflect the RAB asset categories proposed above.	
	The proposed disclosure will reveal information about unregulated services, and this should not be made public. This is especially true for LFCs who are primarily FFLAS businesses. Therefore, we submit that the allocation disclosures should be made only to the Commission where the non-FFLAS assets are immaterial. In addition, supporting explanations should only be required where non-FFLAS assets are material. This is consistent with proportionate regulation.	S4a is exempt from public disclosure where non-FFLAS assets are less than 10% of total assets. An ID regulated provider is exempt from the asset value disclosure reporting under clause 2.3.17 where non-FFLAS assets are less than 10% of total assets.
S5(i) Operating Expenditure	The proposed opex categories are not well defined or intuitive (for example: Network Operations vs Network Operating Costs). The proposed opex categories are also too disaggregated, requiring subjective allocation judgements to be made, thus compromising comparability. In our view it is significantly better to have a few, well-defined categories which can be linked to the key drivers of opex and which are well understood. These categories should also be consistent with the information which FFLAS providers use to operate their businesses.	Adopt the following categories for opex: • Customer (incorporating customer call centre and marketing); • Network (incorporating network maintenance and operations); and • Support (incorporating business and other support). Opex is allocated to each category using the primary purpose principle.
S5(ii) Subcomponents of Opex	We do not support the proposed opex subcomponent disclosures. Research and development expenditure is commercially sensitive and should not be shared. It is also unlikely to be material. Insurance expenditure will be included in the other opex categories and is not a significant line item.	Remove S5(ii).
S5a Operating cost allocations	Consistent with the above, the proposed opex categories are too granular. They are also unnecessary as it is likely the allocation outcomes will be materially consistent within the customer, network and support activities. As noted above, this is where LFCs differ to Chorus. Accordingly, we submit that S5a should be amended to reflect the three opex categories proposed above.	Adopt the same opex categories as submitted for S5(i).
	As for assets, the proposed disclosure will reveal information about unregulated services which should not be made public. This is especially true for LFCs who are primarily FFLAS businesses.	S5a is exempt from public disclosure where non-FFLAS opex is less than 10% of total opex.

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
	Therefore, where the non-FFLAS opex is immaterial the allocation disclosures should be made to the Commission only. Supporting explanations should only be required where non-FFLAS opex is material. This is consistent with proportionate regulation.	An ID regulated provider is exempt from the opex disclosure reporting under clause 2.3.17 where non-FFLAS opex is less than 10% of total opex.
S6(i) Expenditure on Assets	The proposed expenditure categories are too detailed. They are not consistent with our planning, our capex recording (which is by asset type) or the current drivers of our network expenditure. It is not possible for us to consistently comply with these proposals, and we do not consider that the additional effort required to implement such a framework is justified. We would not use the proposed information in our business. We submit that it is more sensible to adopt a capex reporting model which reflects the key drivers for the future expenditure on assets, and the network layer infrastructure. This can be done in a way which is applicable across all FFLAS providers if an appropriate level of reporting is adopted which reveals information about the most material components of our capex, as we have proposed.	Adopt the following categories for expenditure on assets (capex): • Layer 1 – growth; • Layer 1 – maintain and renew; • Layer 2 – growth; • Layer 2 – maintain and renew; • Other network; and • Non-network.
S6(ii) to (vii) Capex projects by expenditure category and Clause 2.3.23	We do not support the focus on individual material capex projects in the initial disclosure periods because it involves a significant disclosure burden, and importantly fails to recognise the current juvenile status of the networks which LFCs have built over the past decade. Capex is not a key driver of our businesses at this time. The proposed disclosures are therefore disproportionate to demonstrating current performance. The definition of material project or programme is also inappropriate, as it is specified as 0.1% of RAB. This means those with the smallest asset bases will be disclosing information about projects which are of significantly lower value than those with the highest asset base values, including Chorus. Other disclosure information provides insights into the investments we are making in our networks. These include the RAB disclosures in S4, the capex disclosures in S6(i) and the asset register disclosures in S10. We also note that the proposed information required under clause 2.3.23 is normally part of an AMP – but AMPs include broad context for network investments. The proposed disclosure (via S6 and S14) is extremely disjointed and we do not consider that a template is the best way to disclose meaningful information about capex projects.	Change capex categories to match those listed above S6(i). Change the definition of material project or programme to include a de-minimis threshold of $1m within the disclosure year for network projects. Remove clause 2.3.23. Defer the disclosure of S6(ii) to (vii) until after the end of the first regulatory period (ie: commencing in 2026). Replace these disclosures with an annual Network Plan report (refer section 4.6 of this submission) to be disclosed prior to each disclosure year (2022 - 2025), with transitional provisions for 2022, for disclosure within five months of year end.

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
	We submit that it is possible to better meet the s186 purpose of ID with a more concise description of the investment underway on the network, for the initial regulatory period.	
S6(viii) Capex subcomponents	Research and development expenditure is commercially sensitive and should not be publicly disclosed. It is also unlikely to be material.	Remove subcomponent disclosures.
S7(i) Actual vs forecast revenue and connections information	We do not support the public disclosure of this information because it is commercially sensitive. The primary reason actual revenue and connections will differ to forecast will likely be due to competition. In addition, we do not consider that this information is consistent with assessing the performance of LFCs against the s162 Purpose Statement.	Delete S7(i). Without prejudice to this view, if this section is retained, the information should only be disclosed to the Commission.
S7(ii) to 9(iv) Actual vs forecast expenditure information	The disclosure of actual vs forecast expenditure at the proposed disaggregated level is excessive for the reasons expressed earlier in this submission. However, we support the exemption for 2022, as there has not been a forecast disclosed for the year. We note that the disclosure of the proposed connection volume data is not required on this schedule because it is included elsewhere.	Change the categories of opex and capex to align with the categories we have proposed (for S5 and S6). Remove the subcomponent disclosures S7(iv), for the same reasons expressed in response to S5. Remove the non-financial disclosures from S7(i).
S8 Consolidation Statement	The requirement to include consolidation statements does not assist interested persons in assessing whether regulated FFLAS providers are performing consistent with the s162 Purpose Statement. The IMs determine the financial methodologies which are to be applied for this purpose, and the IMs include departures from GAAP where these better meet the regulatory purpose. Accordingly, the GAAP methods are not relevant to the purpose. As regulatory financial disclosures will be audited to ensure that the regulatory methods have been applied correctly, there is no need to disclose reconciliation statements for compliance purposes. This was acknowledged under Part 4, which does not require disclosure of consolidation statements. We therefore do not support S8. Without prejudice to our submission that Schedule 8 is removed from the Draft Determination, we submit that in the event that this requirement is retained, a materiality threshold should be applied which exempts LFC disclosure of consolidation statements where non-FFLAS revenue is less than 10% of total revenue of the Company, as recognised under GAAP. This is consistent with proportionate regulation.	Remove S8 from the Draft Determination. If retained, disclosure is not required where non-FFLAS revenue is less than 10% of total revenue, under GAAP.
S9 Report on related party	The related party requirements have been copied from Part 4. However, they were only introduced into Part 4	Modify 9(i) and (9ii) to align with the more aggregated opex and capex

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
transactions and clauses 2.3.18 to 2.3.22	after ID regulation had been in place for a number of years and because related party transactions are material for a number of regulated EDBs and GPBs. However, it is our understanding that they are not material for Chorus, Enable, Ultrafast Fibre or Northpower Fibre. Accordingly, the proposals do not take the specific characteristics of the telecommunications sector into account and have not been designed in a way which is proportionate to a perceived or potential problem. We also question whether it is possible to report related party transactions at the proposed level of disaggregation. We do not support the full suite of supporting disclosures specified in clause 2.3.20 to 2.3.22 where related party transactions are not material. The compliance costs outweigh any potential benefit of this additional disclosure. The information to be disclosed under S9 is sufficient for the first regulatory period. We support the arm's-length transaction standard for the valuation of related party transactions.	categories we have specified in our response to S5 and S6 above. For disclosure years 2022 to 2025, where the value of related party capex and opex is less than 10% of total FFLAS capex and opex in a disclosure year, clauses 2.3.20 to 2.3.22 do not apply.

4.2 Asset register information

(a) The proposed disclosures to be included in S10 are similar to those required for EDBs and GPBs under Part 4. They are not suitable for the FFLAS networks of the LFCs. The LFC fibre networks have been constructed over the past decade, and LFCs do not actively assess asset condition in the same way as electricity and gas networks. As network assets are relatively new with long useful lives, there is little business focus on asset replacement at this point in time. We submit that the S10 proposals are premature. The majority of S10 disclosures should be deferred beyond the first regulatory period.

(b) In addition, the asset categories listed in the schedule are too disaggregated, and do not reflect the core architecture of the FFLAS networks. There are fewer components in fibre networks than either an electricity or a gas network, and as stated previously, the Layer 1 infrastructure is passive. The existing Part 4AA disclosures reflect a more suitable approach for the disclosure of asset information and are consistent with current LFC information and reporting systems.

(c) Accordingly, we do not support the proposed S10. It does not reflect the current status of the FFLAS assets and the focus of our businesses. Our detailed comments on S10 are set out in the following table, along with our suggested alternative disclosures:

Table 2: Asset register disclosures

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
S10 Asset category and asset class	The substantive physical assets which make up the asset register are a subset of those proposed in S10. It is appropriate to include only the categories of physical assets which make up the material parts of the network, to ensure consistency in disclosures. We see little value in disclosing the proposed asset classes. It would require considerable investment in systems and staff time to generate the information proposed, purely for disclosure purposes. A more reasonable set of asset categories is proposed opposite. These are broadly aligned to the current disclosure requirements. The publication of the amount of data proposed in the Draft Determination is likely to be overwhelming to stakeholders. We have seen no evidence that information of this level of detail will be useful to external parties. We note that the Commission has not included similarly detailed information in its summary and analysis of EDB and GPB performance. We do not support the proposals to include count and condition information for spares, various sites, and Layer 2 components. These assets are not managed in the same way as physical built infrastructure. Our systems are not set up to capture this information in this way. While there may be an opportunity to expand physical asset disclosure information in the future, we submit that the initial focus should be on what is of most value now, and the ability of LFCs to meet the requirements during the first regulatory period. The categories suggested opposite will provide sufficient insight into the physical asset registers of each LFC.	Change the asset categories for the purpose of the asset register disclosures to: • Layer 1 Ducts (m); • Layer 1 Manholes (No.); • Layer 1 Cabinets (No.); • Layer 1 Fibre cable (m); and • Layer 2 Cabinets (No.).
S10 Asset condition assessment	We do not currently have active asset condition assessment programmes because our assets are new. They are predominantly underground and passive or electronic. The proposed asset condition H1-5 scoring system has been adapted from the Part 4 approach for EDBs which was derived from guidance developed by the EEA for electricity networks[25]. Electricity networks have been built over many decades and are made up of multiple different components. EDBs are therefore focussed on continuous lifecycle asset management, within incremental replacement of asset components as they deteriorate and age. Our fibre networks are not configured in the same way. Significant components of them will remain largely untouched for very long periods of time. It is more	For disclosure years 2022 to 2025 the asset condition assessment data is not required to be disclosed. The proposed annual Network Plan (section 4.6) will include a description of the focus areas for asset management for each LFC for the next three years.

[25] Electricity Engineers' Association Asset Health Indicator Guide, January 2016

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
	appropriate for each LFC to disclose information about its current asset management focus areas and the plans in place to address them.	
S10 Forecast replacement - assets and expenditure	For the reasons outlined above, we do not support the proposed template for forecast replacement of assets and expenditure at this time. Asset replacement is not currently a key driver of our business. The proposed expenditure information duplicates the information proposed in S11, and therefore is not required. Any forecasts should only be provided for a three-year period, consistent with our current planning and Statement of Intent disclosures. Insights to our current asset status and focus can be presented in our proposed annual Network Plan. This will allow each LFC to describe their network and highlight planned asset expenditure. In addition, that forecast expenditure is commercially sensitive and should only be disclosed to the Commission (refer to S11 below).	For disclosure years 2022 to 2025 the forecast replacement data is not required to be disclosed. Forecast expenditure (Column R) should be deleted as forecast capex is disclosed in S11. The forecast period should be reduced to three years.
S10 Age profile data	The time series included in the S10 is excessive, as the LFC FFLAS assets have been constructed under the UFB initiative, from 2011 onwards. The age information is not critical to our relatively immature businesses. Disclosure should therefore be deferred to allow us to concentrate on establishing more critical disclosures and reporting systems.	For disclosure years 2022 to 2025, the age profile data is not required to be disclosed.

4.3 Forecast expenditure information

(a) The proposed disclosures to be included in S11, are similar to those required for EDBs and GPBs under Part 4. However, those suppliers have been subject to detailed AMP, expenditure and forecasting disclosure requirements for many years. We are not at the same stage of evolution. Our markets are evolving, and we are responding to emerging market trends including increasing competition from FWA providers. We therefore have a lot less certainty about future expenditure needs. The Part 4 approach is not appropriate for telecommunications. In addition, as discussed above, we should not be required to reveal our expenditure plans to our competitors.

(b) The proposed format of the expenditure disclosures is not aligned with how we prepare our business plans and forecasts. The proposals if implemented will add significant complexity to our businesses, which is not justified. Disclosure information should be consistent with the information we require to run our FFLAS business.

(c) Our detailed comments on S11 and S11a are set out in the following table, along with our suggested alternative disclosures:

Table 3: Forecast expenditure disclosures

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
S11 and S11a	Forecast expenditure information is commercially sensitive and should not be publicly disclosed.	S11 and S11a are disclosed only to the Commission.
S11(i) and S11a(i) Forecast expenditure by category for the current year and next five years	The forecast information is too disaggregated and inconsistent with the drivers of our expenditure. Research and development expenditure should not be disclosed as it is commercially sensitive. It is also unlikely to be material.	Change the categories of opex and capex to align with the categories we have proposed (for S5 and S6).
	The proposed forecast period is too long. The competitive telecommunications environment means we do not have sufficient certainty to forecast beyond three years. We currently prepare three-year forecasts for business planning purposes.	Remove the CY+4 and CY+5 columns from S11 and S11a.
	Disclosure of both nominal and constant price forecast expenditure is not required, and we consider this is potentially confusing for stakeholders. Inflationary impacts are less significant for a short forecast period. Users of the information can apply their own inflationary assumptions if they wish. The compliance burden can therefore be reduced by removing the nominal dollar forecasts.	The 'constant price' and 'difference between nominal and constant price forecast' disclosures are removed from S11 and S11a.
S11(ii) to (vii)	Disclosure of material project expenditure forecasts is not supported for the reasons which have been described above. The proposed level of project information disclosure is excessive. Insights into our current areas of focus can be more effectively provided by other means, as we have proposed.	Disclosure of S11(ii) to (vii) is not required for the 2022 to 2025 disclosure years. The proposed annual Network Plan (see section 4.6) includes a description of the major projects for each LFC for the next three years.

4.4 Forecast demand and capacity information

(a) We submit that much of the information included in S12 and S12a is not possible to forecast in a meaningful way and/ or is commercially sensitive. We consider that there are better ways to provide information about the future performance of our networks.

Our detailed comments on S12 and S12a are set out in the following table, along with our suggested alternative disclosures:

Table 4: Forecast Demand and Capacity Disclosures

<table>
<tr><th>Proposed Disclosure</th><th>LFC Response</th><th>Alternative or Amended Disclosure</th></tr>
<tr><td>S12 POI Area Disclosures</td><td>We submit that any disclosures by area should be consistent with the geographic reporting areas which are reported under the current disclosure requirements.</td><td></td></tr>
<tr><td>S12 (Forecast Capacity and Utilisation</td><td>It is not possible to estimate forecast utilisation, capacity or fill in a meaningful or consistent way across the LFCs and Chorus. Capacity is acquired in blocks, which means the ratios present as step changes when a new block is added. Accordingly, the proposed information will not be useful and will be misleading to stakeholders.

We also note that:

• premises passed is no longer a key indicator for the networks which have already been built;
• forecast connection information is commercially sensitive and should not be publicly disclosed; and
• a five year forecast period is too long, as submitted above.

As network performance information is provided in the quality disclosures in S20, much of what is proposed in S12 can be removed.</td><td>Delete all information except number of connections by Area for the current year.

The proposed annual Network Plan (section 4.6) will include a description of the expected network performance over the next three years.

S20 includes network performance information.

S12 forecast information is only disclosed to the Commission.</td></tr>
<tr><td>S12a Forecast demand</td><td>Detailed forecast demand information is commercially sensitive and should not be publicly disclosed, as noted above.

It is not sensible to forecast the information specified in 12a(i) and (ii) and then derive an average demand 12a(iii) resulting in a peak to average ratio.

While the aggregation of total demand divided by the number of active GPON connections derive a static current position, the forecasting of future demand is complicated by technology trends, including transmission efficiencies, and end user demands and behaviours.

A simple extrapolation can be calculated by the Commission with the use of historical data.</td><td>Delete S12a.

The proposed Network Plan ((section 4.6) will include a description of the expected network demand over the next three years.</td></tr>
</table>

4.5 Asset management capability

(a) The proposed self-assessment of asset management maturity is supported, but not for near term disclosure. We suggest that LFCs work towards disclosure of S13 in the final year of the current regulatory period, i.e.: the beginning of the 2024 disclosure year. This is consistent with the networks regulated under Part 4, where the AMMAT disclosure was introduced as an enhancement to existing AMP disclosures.

(b) The disclosure will be more meaningful if LFCs have time to assess their current processes, prepare documentation, and seek external advice on the maturity framework and assessments against the framework.

(c) As our businesses are moving from the core build phase, asset management processes are still emerging. Therefore, it is appropriate that this formal assessment is deferred for a few years, as we work towards reporting against the proposed best practice asset management framework.

(d) Our detailed comments on S13 is set out in the following table, along with our suggested alternative disclosures:

Table 5: Asset Management Capability Disclosures

Proposed Disclosure	**LFC Response**	**Alternative or Amended Disclosure**
S13 Asset management maturity self-assessment	We support the proposed disclosure, but there needs to be more time allowed for LFCs to work towards a meaningful self-assessment.	Require S13 to be disclosed for the first time at the commencement of the 2024 disclosure year, and annually thereafter. The proposed Network Plan disclosure (s4.6) includes information about asset management policies and plans, which will provide some insights in the interim period.

4.6 Network Plans

(a) As we have noted above, there are several disjointed disclosure requirements throughout the Draft Determination for information that is normally included in an AMP. Although the Draft Decision is not to require publication of AMPs, the Draft Determination in effect includes substantive requirements that are consistent with the AMP information disclosed under Part 4.

(b) Asset management planning information does not suit a template style of disclosure because it requires broad explanatory context. We submit that the proposed presentation of information which is dispersed through various templates and schedules is a complex and ineffective way of providing insights into the future network plans of the LFCs. The value in an AMP is that there is a body of information collated together which explains and supports the asset management planning strategy, policies and plans for owners of infrastructure assets.

(c) We submit that the proposed approach is not helpful to stakeholders and imposes an undue compliance burden on LFCs because it requires information to be manipulated into formats which are not consistent with current planning processes.

(d) AMPs and asset management practices of the regulated networks in other sectors have evolved and improved over time. They have become more comprehensive, more evidence based and more integrated with network performance outcomes. This has occurred over more than two decades of increasing regulatory and stakeholder scrutiny.

(e) The proposed asset management information disclosures for LFCs are too onerous for the first regulatory period. They do not adequately take account of the relative immaturity of the FFLAS sector compared to other utility services. Accordingly, we submit that the following information is not disclosed annually during the first regulatory period:

- S6(ii)-(vii), clause 2.3.23 - Material capex project and programme disclosures.
- S10 – Asset condition, forecast replacement and age profile disclosures.
- S11(ii)-(vii) – Forecast of material capex projects and programmes.
- S12 – Forecast capacity, utilisation and demand disclosures.
- S13 – Asset management maturity assessment.
- S14 – Commentary supporting asset management decisions and plans.

(f) Instead we propose an alternative approach (in Table 6 below) which is more tailored to the current status of the LFC FFLAS businesses and is more consistent with proportionate regulation. It is also consistent with the purpose of ID to provide sufficient information to assess whether LFCs performance is consistent with the s162 Purpose Statement.

Table 6: Proposed Network Plan Disclosure

Alternative or Amended Disclosure	**Timing and Public Disclosure**
Each LFC is required to disclose a Network Plan prior to the commencement of each disclosure year which describes: (i) Approach to asset management, including asset management policies (ii) Asset management priorities, including: • network constraints; • network extensions; • network maintenance and renewals; (iii) Network performance and performance targets; and (iv) Significant projects/programmes. The Network Plan will be consistent with the S11 and S11a Expenditure Forecasts which are to be disclosed to the Commission.	The Network Plan is disclosed prior to each disclosure year, except 2022, where transitional provisions apply which allow for disclosure within 5 months of year end. The Network Plan covers a three year planning period. From disclosure year 2024, the Network Plan will include S13. Information that is commercially sensitive to be disclosed only to the Commission.

4.7 Quality Metrics and Performance Measures

(a) The proposals address a range of service metrics which are relevant to our businesses. There are however important improvements which need to be made before these proposals can be implemented.

(b) A number of definitions relevant to S20 are unclear, missing or poorly specified. Industry standards must be established before the proposals can be successfully implemented. We suggest this issue can be resolved by:

(i) simply applying our existing Reference Offer service level agreements (**SLAs**), which have been developed in consultation with, and approved by, retailers and CIP, and are consistent with Chorus service levels. See for example https://www.enable.net.nz/assets/Variations-to-reference/Enable-UFB-Bitstream-Services-Service-Level-Terms-Oct-2019-v2-clean.pdf; and

(ii) the Commission hosting industry workshops to develop the necessary definitions.

(c) The proposed quarterly reporting of monthly performance is not warranted. The historical monthly reporting to CIP was established at the beginning of the UFB initiative when close monitoring of the progress of the UFB roll out was required to oversee the Crown investment. We submit that, with the FFLAS network builds having been completed, it is not necessary to provide performance information on a monthly basis (or to report it quarterly) in order to assess the performance of each LFC against the s162 purpose statement.

(d) The proposed connection satisfaction survey requirements should not mandate the specific questions to be asked, because this will disrupt the good processes we already have in place with our retailers (who we work with closely to minimise the impact on their customers). We submit that S21 be amended by replacing the specific questions with a list of topics to be covered in our connection satisfaction surveys.

(e) In the table below we provide some initial comments on some of the issues we have identified with the proposals.

Table 7: Quality Disclosures

Proposed Disclosure	Issues Identified
S20(i) Provisioning	• The residential/business distinction is not workable as household and business premises are increasingly combined. This is also true in rural supply areas. • "Simple" and "complex" connection definitions are unclear. This differentiation is not supported, as information is not currently captured in this way. • "Simple" vs "complex", and "transport services" are irrelevant for L2. • Suggest using the median provisioning time instead of an average, as per RSP SLAs • Intact is not a L1 category. • Current reporting conventions differ to the proposals.
S20(ii) Faults	• Geographic area reporting should align to current conventions. • Our current SLA measures should be adopted. • Definitions for categories require improvement, e.g.: loss of power. • The residential/business distinction should be removed. • Non-regulated provider faults should be removed as we are not provided with fault reasons from RSPs.
S20(iii) Availability	• Remove notified unplanned outages. • Use current reporting conventions in place of proposals.
S20(iv) Performance	• We support the intent, but definitions need clarifying. • Need clarification of architecture of the OAM probes. Is it one test OAM probe per OLT? • It is unclear whether OAM probes need to have separate dedicated ENNI. • The commitments for EIR should be removed as it is best effort only. CIR is sufficient. In addition, we suggest CIR is changed to "High Priority" and EIR to "Low Priority" or "PCP=5" and "PCP=0" respectively. • Clarification is required for determining when a port qualifies for inclusion in a band (e.g. is it the peak utilisation during the reporting period or is it the average?).

Proposed Disclosure	Issues Identified
	• The Draft Determination refers to the level of testing to be performed but it does not clearly identify whether it needs to be per INNI or per OLT. We recommend the test results focus on per cluster rather than per OLT because per OLT is not commercially possible for any LFC deploying pizza boxes SD-PON.
S20(v) Customer Service	• We do not support specifying the specific survey questions in S21, because these will differ to those we have been using, and disrupt our time series information. • We suggest that the topics covered in S21 are specified, but not the actual questions.

4.8 Pricing, revenues and incentives

(a) As noted previously, under our wholesale agreements we are unable to change prices more than once in a 12 month period. Prices are set based on the expected number of connections over the year. Our prices are also available on our websites.

(b) Therefore, there is no justification for monthly recording and quarterly reporting of pricing information. This frequency of reporting is also not consistent with the purpose of ID which is to assess performance against the s162 Purpose Statement.

(c) It is appropriate for revenue information to be disclosed annually when other financial information is disclosed. This information will be audited as part of the wider disclosure audit.

(d) Directors will not be prepared to certify information which will subsequently become subject to audit, as there is a possibility that the information will be modified as a result of audit procedures. This places Directors in an unacceptable situation.

(e) Financial incentives are not material for Ultrafast Fibre or Enable. The proposed disclosure requirements appear to be a response to a Chorus issue. Accordingly, LFCs should be exempt from S25(ii) unless incentive payments are material. We note that any financial transactions involving incentives will be recorded in the regulatory profit statement or RAB as appropriate. Supporting explanation via S14 is therefore sufficient for LFCs in this respect.

(f) Our detailed comments, and suggestions for alternative disclosures are set out in Table 8 below:

Table 8: Pricing Disclosures

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
S25(i) Report on Pricing	We support the use of LFC specific service descriptions for S25(i). Prices are published on LFC websites at all times in accordance with Part 4AA of the Act and are only changed once in every 12-month period. Therefore, disclosure of monthly pricing data is not required.	Publish annual pricing data at the same time financial disclosures are published. Data is audited and certified at year end.

Proposed Disclosure	LFC Response	Alternative or Amended Disclosure
S25(ii) Report on Incentives	As stated above, we consider that monthly reporting is excessive, and it causes issues for certification and audit. Incentives may not be material for LFCs and therefore specific disclosure of incentive information should only be made under certain circumstances. This is consistent with proportionate regulation.	Disclosure is required annually, where the total value of incentive payments exceeds 10% of total FFLAS revenue in the year. Incentive payments will be recorded in regulatory profit or the RAB as appropriate, and this is sufficient where they are not material.

4.9 Contract disclosures

(a) The proposed provisions in clauses 2.3.24 to 2.3.27 for the disclosure of standard and non-standard contracts in effect duplicate our existing regulatory obligations under Part 4AA of the Act and the Open Access Deeds, which require public disclosure of a Reference Offer for each service (a standard contract in the Draft Determination), and any variations to a Reference Offer (a non-standard contract in the Draft Determination) no later than 10 working days after the service is available. The final determination should provide that compliance with our obligations under Part 4AA is deemed to satisfy the obligations in clauses 2.3.25 -2.3.27.

(b) Clause 2.3.28 sets out a disclosure regime comparing standard contracts with equivalent non-standard contracts. This should be subject to a materiality threshold; disclosure should only be required where revenue from non-standard contracts exceeds 10% of total FFLAS revenue in the year.

(c) Clause 2.3.28(1)(b) requires disclosure of target revenue by contract. This is commercially sensitive information that should be Commission-only information under s188(3)(d).

4.10 Explanatory schedules

(a) Consistent with our submission that the proposed disclosures are too detailed for the first regulatory period we propose amendments to S14 in line with the proposals for alternative and amended disclosures presented above:

Table 9: Disclosure of Explanatory Notes

Proposed Disclosure	Alternative or Amended Disclosure	Explanation
S14a Mandatory Explanatory Notes	Remove paragraph 6 (M&A expenses).	The regulatory profit (5) and opex explanations (14.3) are sufficient to capture abnormal expenses such as M&A.
	Insert requirement to explain any asset stranding allowance.	Currently omitted from regulatory profit in S2.
	Remove para 9 – allocated works under construction.	This is not a material component of regulatory profit or the asset base, or a material component of asset allocations.

Proposed Disclosure	Alternative or Amended Disclosure	Explanation
	Remove 14.1 and 14.4 – assets renewed and innovations for deferral of asset replacement.	More appropriately addressed in Network Plan disclosures. Innovation expenditure is commercially sensitive.
	Remove 15 – insurance information about electricity distribution assets.	Not a material matter for FFLAS providers.
	Remove 16.3 – variance between actual and planned capex.	This is duplicated with 17 and is more appropriate in conjunction with S7.
	Remove 16.4, 16.5 and 16.6 – deliverability, linkages between opex and capex and network quality, innovations to defer replacement.	More appropriately addressed in Network Plan disclosures. Innovation expenditure is commercially sensitive.
	Remove 18 - target and actual connections.	This information is addressed in S10. It is duplicated in S7 and should be removed.
	Remove 19 – consolidation statement.	S8 not supported, as not required to meet the purpose of ID, and reveals information about non-FFLAS services.
S14b Mandatory Explanatory Notes on Forecast Information	Remove S14b.	Replace with annual Network Plan as proposed above. Nominal and constant price comparison information is not required. Innovation expenditure which will improve efficiencies should not be publicly disclosed.