



Determining Specified Fibre Areas
Process & Issues Paper

Submission to Commerce Commission

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ABOUT VOCUS

1. Vocus New Zealand is the third largest fixed line operator employing over 600 staff In New Zealand. Our retail operation includes a number of challenger brands - Slingshot, Orcon, Flip and 2Talk. We are also an active wholesaler of services including access, voice and broadband over both fibre and copper.
2. Vocus has made significant investments in New Zealand. We are the largest copper unbundler with a presence in over 200 exchanges throughout New Zealand. In addition we operate 4,200km fibre optic network transits between virtually all major towns and cities, and connects directly into all major peering exchanges. .
3. Our customers in New Zealand range from government agencies, integrators, large corporate, SME and residential households. We are committed to New Zealand's fibre future.
4. Vocus is committed to New Zealand and is one of the few large NZ telecommunications companies to base all its customer service call centres here in New Zealand rather than out-sourcing its customer service operations overseas.
5. Vocus Group is one of the fastest growing telecommunications companies in Australasia and a major provider of voice, broadband, domestic and international connectivity and data centers throughout New Zealand and Australia.
6. Vocus welcomes the opportunity to make this submission on the Commission's 'Determining Specified Fibre Areas Process & Issues Paper'.
7. If you would like any further information about the topics in this submission or have any queries about the submission, please contact:

Johnathan Eele
General Manager Commercial and Regulatory
Vocus Group (NZ)

[Johnathan Eele@vocusgroup.co.nz](mailto:Johnathan.Eele@vocusgroup.co.nz)

SPECIFIED FIBRE AREAS AND COPPER WITHDRAWAL CODE ARE INEXTRICABLY LINKED

8. Vocus supports the TCF submission on the Commission's specified fibre areas (SFA) issues paper, in particular the statement (para 5) that:

“it is difficult to see how an SFA can be determined in the absence of greater certainty about the role of the CWC and the regulatory regime which applies to existing copper connections in SFA's”

To come up with a workable solution the SFA, CWC and regulation need to work in combination with each other. The Commission is proposing to develop the CWC under a separate process to the SFA. However, the approach to the SFA will have a dependency on the regulatory regime and certain issues being addressed and agreed to in the CWC as we touch on in this paper.

9. As the TCF submission (para 19) outlines all parties (both LFC and RSP's) other than Chorus supported the Commission's view that ***“the regulatory controls on the copper services inside the SFA remain until the end-user is migrated”*** [Para 19].
10. If Chorus is allowed to do as it sees fit with copper services after an SFA is determined then there is a risk that Chorus could create significant consumer and competitive issues as outlined in this submission.

PREMISES 'ABLE TO BE CONNECTED' NOT JUST AVAILABLE

1. The policy intent is clearly that before copper withdrawal can occur a premises must be able to be connected not just passed. The question is to what extent should the prequalification of end user connections occur before an SFA can be determined.
2. Clearly the more rigorous the prequalification process that is undertaken before an SFA is declared:-
 - (i) the lesser the need for regulatory and consumer protection measures; and
 - (ii) the shorter the period between declaring an SFA, whereby new copper services are no longer available, to the withdrawal of the copper.
3. Vice-versa if the approach to defining an SFA has a lower pre-qualification test, i.e. available rather than able to be connected, then the longer the period between declaring an SFA and withdrawal of copper AND the need for more regulation of existing copper connections and consumer protection.
4. Vocus can envisage practical difficulties with the level of granularity of information required (at an individual end-user level) before an area is declared an SFA. As a matter of practicality the Commission could 'loosen' the SFA test if certain key items have been agreed or made clear, in particular:
 - (i) It is agreed that the CWC ensures Chorus / LFC is obligated to ensure that an end user is fibre able, including non-standard installs, consent and right of way issues etc.

- (ii) Existing copper connections are subject to the STD as the Commission correctly states in its issues paper (para 73).
- 5. If key issues such as these are still under debate then Vocus supports a more granular approach to the establishment of an SFA (down to individual end-users being able to connect, including installation barriers).

SPECIFIED EXISTING COPPER SERVICES COVERED BY THE STD

- 6. Vocus supports the Commission's statement that existing copper services continue to be covered by the STD. This was the view of all the RSPs and LFCs, in fact everyone except Chorus) as reflected in the TCF submission - "***the regulatory controls on the copper services inside the SFA remain until the end-user is migrated***" [Para 19].
- 7. The policy intent is that Chorus is not required to provide the regulated service to new end-user connections; it would not make sense for the policy intent to be that a 'light handed' definition of 'able to be connected' is used to determine an SFA and that existing copper services are no longer subject to the STD.....that would leave the pricing and quality of copper services to an unfettered monopoly provider.
- 8. If Chorus were to increase the price of copper services – UCLL and / or UBA – that would have undesirable consequences:
 - (i) Creation of consumer issues during the transition period; and
 - (ii) Create competitive distortions in the market during the transition period.

COPPER PRICE INCREASES WOULD BE DETRIMENTAL TO CONSUMERS' AND RSPS' ABILITY TO MANAGE MIGRATIONS

- 9. In the past, consideration of copper pricing has factored in the incentives for RSPs to migrate to fibre and, as a result, copper pricing has, arguably, been set at the higher end. In Vocus' opinion those concerns were unfounded and the behaviour of RSPs, including large unbundlers of copper such as ourselves, and the take-up of fibre over the last few years demonstrates a commitment to fibre.
- 10. The situation once an area is declared an SFA is even more clear cut. From the time an area is declared an SFA and copper has a 'used by date' RSPs are clearly incentivised to migrate customers as quickly and as smoothly as possible to fibre to avoid their hard won customers churning.
- 11. In this scenario allowing Chorus to raise at its whim the price of existing copper is a 'poor lever' to drive migration. Chorus increasing price won't have a material impact on RSPs behaviour or incentives (RSPs have embraced fibre to date) but will drive increased churn between RSPs creating more pressure on RSPs and **diverting resource and focus from migration issues at a time when operational areas will be under pressure.**
- 12. The Amendment goes to great length to ensure a smooth migration and ensure that consumer issues are kept to a minimum. Allowing Chorus, a monopoly, to increase the cost of

either its UCLL service or its UBA service on existing copper connections would be counterproductive, creating issues for consumers and hampering RSPs' ability to handle those issues **all to the benefit of Chorus, a monopoly**.....clearly not the policy intent.

CHORUS COPPER PRICE INCREASES WOULD CREATE COMPETITIVE DISTORTIONS

13. Furthermore, Chorus arbitrarily increasing the price of copper services risks creating competitive distortions in the market. Some RSPs have invested heavily in Unbundling and have a higher proportion of their customers on copper.
 - (1) A change in the relativity of UCLL to UBA would create distortions between RSPs that have invested in unbundling and other RSPs.
 - (2) RSPs with a greater number of customers on copper will be hit hardest.
 - (3) Mobile players have access to Fixed Wireless as a short-term alternative which is not available to non-mobile operators.

OTHER ISSUES

COMMUNICATION WITH END-USERS

14. This may be an issue that is better dealt with by the CWC, however there will need to be rules around how end-users are communicated to and the content of communication. LFCs and Chorus are wholesalers and as such any communication directly with an RSP's customer base should be agreed beforehand and on an as needed only basis. This area needs further attention.

REGULATED FIBRE PROVIDER

15. Vocus supports the Commissions view that 'Specified fibre services' only relate to regulated fibre services providers.