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Telecommunications Act Review: Post-2020 Regulatory Framework for Fixed Line Services

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Post-2020 regulatory framework for fixed line services

Introduction

The Telecommunications Act 2001 (the **Act**) provides the regulatory framework for communications markets in New Zealand. The Minister for Communications is undertaking a review of the regulatory framework (the **Review**) under section 157AA of the Act.

In April 2016, the Government agreed to high level policy decisions for a new regulatory framework for fixed line (UFB fibre and copper-based) communications services:

- a utility-style regulatory framework with ‘building blocks model’ (**BBM**) pricing for fixed line services (both copper and UFB) will be implemented from 2020;
- this regulatory framework will be established in the Act (rather than the Commerce Act 1986 (the **Commerce Act**)); and
- the current obligation to unbundle the point-to-multipoint parts of the UFB network from 1 January 2020 will be retained.

In August 2016 an Options Paper was released, setting out the Government’s detailed proposals for a reform package for fixed line services (the **Options Paper**). 31 submissions were received on the Options Paper.

Final proposals

Following consideration of submissions on the Options Paper, the Government has now resolved a package of reform for fixed line services.¹

A new regulatory framework for UFB fibre-based services will apply from 1 January 2020. The regulatory framework is based on the utility regulation in Part 4 of the Commerce Act, but also contains features unique to fixed line services as necessary to apply this regulation to this class of technology.

¹ Consideration is still ongoing in relation to other issues such as the regulation of mobile services, and further announcements will be made shortly.

The proposed pricing framework for UFB fibre services is designed to be stable and predictable and to promote the delivery of high quality fixed line communications services at competitive prices for end-users. The framework will limit excess profits arising from natural monopoly services while providing a reasonable expectation of returns in order to promote ongoing investment, thereby providing ongoing long term benefits to end-users.

Since the April decisions, the Government has reached the view that a different and simpler approach should be taken for copper services.

This paper outlines the final approach for UFB fibre and the proposed approach for copper services, and seeks views on the new proposals for copper services.

The existing pre-2020 regulatory framework will still apply to other forms of communications services (for example mobile).

UFB fibre services: final decisions

The regulatory framework will apply the following forms of regulation from the start of 2020:

- **information disclosure regulation**, which ensures that sufficient information about the performance of regulated suppliers is readily available; and
- **price-quality regulation**, where constraints on revenues and/or prices, and requirements for service quality are placed on regulated suppliers.

Local Fibre Companies

Local Fibre Companies (LFCs) established under the UFB programme (Enable Services, Northpower Limited and Ultrafast Fibre) will be subject only to information disclosure regulation from 2020, with monitoring and oversight by the Commission. Should evidence emerge that information disclosure regulation is not effective in deterring monopoly behaviour, the Commission will be able to impose price-quality regulation. The LFCs currently face competition from Chorus' copper network (and Vodafone's HFC network in Christchurch), and are likely to be more competitive in their pricing and service delivery than Chorus.

Chorus

Chorus will be subject to information disclosure and price-quality regulation for UFB services from 1 January 2020.

Under price-quality regulation an annual 'maximum allowable revenue' (otherwise known as a 'revenue cap') will be set for Chorus. This will be calculated as a sum of various network and financial 'building blocks' of costs. This revenue cap should be sufficient to cover all of Chorus' efficiently incurred costs without putting it in a position to earn excessive profits. This is a standard approach used within Part 4 of the Commerce Act for other utilities. In order to minimise revenue or price shocks, the Commission will be required to "smooth" any changes in revenue, by spreading the changes over a regulatory period (or multiple periods) – for example, by altering the asset depreciation path.

In addition to the revenue cap, Chorus will be required to provide two regulated UFB fibre ‘anchor’ products with price and quality terms set by the Commission. These anchor products can be requested by an RSP and must then be provided by the supplier. Initially, there will be a basic broadband (100/20Mbps) anchor product and a voice-only anchor product. This is to ensure that the most common residential voice and broadband services are available at reasonable prices on the UFB network, and to create a price and quality ‘anchor’ for the other services provided by the supplier. Anchor product prices will initially be set at 2019 UFB contract levels, increasing at the rate of inflation until the first price review in 2023.

Subject to the revenue cap and some minimum quality requirements, suppliers subject to price-quality regulation will have flexibility to develop and update their wholesale products in response to RSP preferences and market developments. This flexibility is important in the fast-evolving market for broadband services.

See the annex for a summary of the proposals.

Copper services

The copper network is nearing the end of its useful life, and is ultimately being replaced by the UFB network, with the exception of rural areas where UFB is not currently being (or planned to be) rolled out. By the end of 2024, 85% of New Zealanders will have access to fibre access networks.

The price for copper services has already been set by the Commission in a protracted and complex process. It would be destabilising to repeat this process for copper prices after 2020. There are challenges in valuing copper assets. In addition, including copper in the pricing framework for UFB services would introduce significant complications, leading to an atypical application of the ‘building blocks model’ which could lessen predictability.

As a result of these considerations a new approach is being proposed for copper services post-2020.

Outside areas where UFB or other fibre is available, Chorus will be required to continue supplying regulated copper services² at prices that will be capped at 2019 levels, without ongoing adjustment for inflation.

Inside areas where UFB or other fibre is available, copper will be deregulated, removing regulatory oversight of copper services, and leaving Chorus free to continue operating it or close it down (subject to some consumer safeguards).

Inside areas where UFB or other fibre subsequently becomes available, there will be regular reviews by the Commission into whether copper deregulation is desirable. This will be a fast-track

² Chorus will be required to continue providing the ‘unbundled bitstream access’ (UBA) wholesale copper broadband product as well as the ‘unbundled copper low frequency service’ (UCLFS) wholesale copper voice product.

process, which will also require the Minister for Communications to be satisfied that fibre is sufficiently widely available in that area.

The overall arrangements for copper services will be reviewed in 2023 to determine if they remain fit for purpose.

Under this approach, should Chorus lose a copper customer to a competing network (for example, 'fixed wireless' broadband and mobile networks), it will not recover any ongoing revenue for that customer through regulated prices. Chorus should therefore have an incentive to respond to the risk of copper line loss to these services by upgrading its network or lowering its prices. This approach should also provide an incentive for Chorus to expand its fibre footprint (subject to Commission efficiency tests) so that its copper network can be deregulated and replaced with fibre over time.

Questions

1. What are your views on the proposal to deregulate copper services in areas where UFB or other fibre services are available? What do you see as the benefits and risks?
2. What are your views on the proposal to continue regulation of copper services outside areas where UFB or other fibre services are available?
3. What risks do you see in these proposals? Please comment on any ways you think these risks could be mitigated.

Telecommunications Service Obligation (TSO) changes

The Telecommunications Service Obligation for Local Residential Telephone Service (formerly known as the 'kiwi share') served an important purpose in ensuring that a basic landline voice service was available widely at an affordable price for New Zealanders. The obligation involves Chorus providing network input services to Spark, who in turn provides the retail Local Residential Telephone Service. This includes a capped retail price and free local calling.

In areas where UFB or other fibre has been rolled out, the need for the Local Residential Telephone Service TSO has reduced considerably. Many features of this TSO service reflect capabilities – such as dial-up services – that were important twenty years ago. The UFB initiatives, as well as the ongoing upgrade of mobile and wireless networks, have created platforms for more flexible and sophisticated services for consumers. There are now many affordable options for end-users seeking basic voice calling services – for example mobile packages typically include large numbers of calling minutes, and there are local calling services offered on alternative fixed line networks.

Therefore, we are proposing that inside areas where UFB or other fibre is available, the TSO obligations on Chorus and Spark New Zealand will be removed. We are confident that end-users will continue to be able to access the minimum features the Local Residential Telephones Service TSO provides on other networks.

In LFC areas, there will be strong competition between fibre and copper, and the threat of regulation by the Commission (including the possible introduction of anchor products) to drive the

development of fibre alternatives. In Chorus UFB areas, the anchor products that Chorus will be required to provide after 2020 will support high quality voice and broadband services, and will be available at capped prices.

The obligations on Spark relating to the Initial Call Answering Point (ICAP) 111 call answering system will not be removed in any areas. The TSO for the New Zealand relay service for deaf, hearing impaired and speech impaired people will remain in place.

The Local Residential Telephone Service TSO will also be removed as fibre is rolled out to new areas in the future, subject to a review by the Commission.

Questions

4. Please comment on the proposal to remove the TSO obligations on Chorus and Spark New Zealand inside areas with UFB or other fibre available.
5. What risks do you see in this proposal? Please comment on any ways you think these risks could be mitigated.

Copper withdrawal requirements

In areas where copper services are deregulated, Chorus will have the option of withdrawing service and removing the copper network. Government policy is that Chorus should be able to do this according to its own timeframes. However some minimum customer protection requirements will apply where Chorus does elect to withdraw service.

These requirements will be implemented in a regulated code that applies to Chorus. The minimum requirements that must be met before Chorus is able to withdraw copper are:

- the availability of UFB services and the ability to install a UFB connection (if necessary) at no cost (except where the connection falls outside the 'standard' and 'non-standard' installation categories) to all affected premises in a reasonable time frame, to ensure end-users do not face a 'gap' without service when copper is withdrawn and before UFB is connected;
- anchor products or suitable commercial alternatives are available to affected premises;
- notice to be provided by Chorus, followed by a reasonable period of time to enable end-users and RSPs to prepare before copper is withdrawn;
- services currently able to be provided over copper must be available over UFB (except for legacy services such as facsimile); and
- information to be provided to end-users about the change and the availability of services after the change (including in relation to the need for battery back-up on UFB services in the event of a power failure).

There are now very few legacy products (such as alarm or health monitoring services) which have not been modified to operate effectively on fibre networks, and by 2020 we expect this to be the case for all such services.

Questions

6. Please comment on the proposed consumer protection requirements, including your views on how each requirement should be framed (for example, how much notice should Chorus provide before withdrawing copper service?)

Impacts on consumers

We are interested in views on any potential risks that may arise from the proposals for copper services. In particular, we are interested in feedback on whether the ability for end-users to switch to fibre services will be sufficient protection in areas where copper is deregulated.

We are also interested in whether the protections currently afforded by the TSO for Local Residential Telephone Service are necessary, given the other choices available to end-users such as mobile and fibre services. Those consumers who are outside of areas covered by UFB, will continue to be covered by the TSO for Local Residential Telephone Service.

Questions

7. Does the ability for end-users to switch to fibre services offer sufficient protection for consumers, in areas where copper is deregulated?

Your views

We received valuable feedback from a range of stakeholders on the *Options Paper*, and it has informed the final decisions and proposals. We will use the feedback received on this paper to inform final decisions on the approach to copper services, including the design of amending legislation.

Submissions process

You are invited to make a written submission on the issues raised in this paper. The closing date for submissions is **5pm on Friday 3 March 2017**.

Specific questions are listed at the end of relevant sections (and a full list of questions is in Annex B). The Government welcomes comment on some or all of the questions raised, as well as broader comment on the issues.

Where possible, you should provide specific examples and evidence to support your views. If these examples are commercially sensitive, we encourage you to provide two versions of your submission: a full version and a public version (see below).

Comments should be submitted in writing (preferably by email), as follows:

Email (preferably as a PDF or Microsoft Word document): telcoreview@mbie.govt.nz

Post: Telecommunications Review Team
Communications Policy
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Delivery address:

Telecommunications Review Team
Communications Policy
Ministry of Business, Innovation & Employment
Main reception
15 Stout Street
Wellington 6011

If you post your submission, please also send it electronically if possible.

Publication of submissions

Except for material that may be defamatory, the Ministry of Business, Innovation and Employment (the **Ministry**) will post all written submissions at www.mbie.govt.nz/telcoreview. The Ministry will consider you to have consented to publication by making a submission, unless you clearly specify otherwise in your submission. If sensitive material in your submission cannot be published, please provide two versions of your submission – a full version (with that material clearly identified) and a publishable version with redactions.

Submissions are also subject to the Official Information Act 1982 (the **OIA**). If you have any objection to the release of any information in your submission, please set this out clearly with your submission. In particular, identify which part(s) you consider should be withheld, and explain the reason(s) why you consider we should withhold the information by reference to section 9 of the OIA. The Ministry will take such reasons into account when responding to requests under the OIA.

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Glossary of terms

Anchor product	Service that UFB providers would be required to supply, with price, non-price and quality terms set by the Commerce Commission.
Building Block Model	The building block model (BBM) is a methodology used for regulating monopoly utilities. Under BBM, a regulated supplier's allowed revenue is equal to the sum of underlying components or 'building blocks,' consisting of the return on capital, return of capital (or depreciation), operating expenditure, and various other components such as taxes and incentive amounts. The initial asset valuation is carried out and is then updated over time based on actual prudent/efficient CAPEX and depreciation.
Cabinet	Roadside infrastructure that provides the aggregation point between individual end-user telecommunications connections (for example, the connections of all residents in a subdivision or set of streets) and the nearest exchange (which serves a wider area).
Capital expenditure	Expenditure on acquiring, maintaining or improving long-term assets such as network equipment, property or buildings.
Claw-back	Recouping an amount for a regulatory period through higher-than-normal or lower-than-normal prices in subsequent regulatory periods.
Copper	The original national fixed line telephone network is a copper network. It allows electrical currents to flow, and was designed exclusively for telephony, but is now also used for internet services. The network is owned and operated by Chorus.
Dark fibre	Passive fibre optic network infrastructure, which is sold without any optical or electronic signalling. The customer (usually a Retail Service Provider) is responsible for adding the transmission system at both ends. Also referred to as layer 1 or 'unlit' fibre services.
Designated services	Services regulated on a price basis under the Telecommunications Act (see also specified services).
Depreciation	Depreciation is a term used in accounting, finance and economics meaning the reduction in value of an asset over time to reflect its remaining service potential.
Economic regulation	In the communications context, we use this phrase to refer to regulation adopting cost-based measures to control monopoly pricing, to ensure services are of a suitable quality and to ensure access is provided to regulated infrastructure on a timely basis.

End-user	A telecommunications service end-user is a person (or business) who is the ultimate recipient of a telecommunications service (for example, the person using a broadband internet connection), or a service that relies on a telecommunications service (for example, the user of a monitored health alarm).
Exchange	An exchange is a central building which connects all the end-users' connections within a geographic area to the wider national telecommunications network.
Fixed line services	Services provided over fixed line networks including copper, fibre and Hybrid fibre-coaxial networks.
Fibre or fibre optic	An optical fibre is a very thin strand of glass that is used to transport information via a beam of light.
Geographic averaging	The practice of charging a single price to end-users of a particular product across a geographic coverage area, even though the costs of service provision may vary between those users.
Hybrid fibre-coaxial (HFC) network	A broadband network based on a hybrid of fibre and coaxial cable technologies
Information disclosure regulation	A set of requirements providing for disclosure of financial and other network-related information by regulated suppliers.
Input methodologies	A set of rules designed to increase regulatory predictability, whereby the regulator develops and specifies binding methodologies for determining the various inputs into price-monitoring, price-setting and other regulatory activities prior to those activities occurring.
Layer 1 service	A layer 1 service provides wholesale access to the physical/passive layer of a digital communications network, based on the Open Systems Interconnection (OSI) model of computer networking. The service is sold without any optical or electronic signalling and includes UCLL and dark fibre, as described above.
Layer 2 service	A layer 2 service provides wholesale access to the data link layer of the OSI model of computer networking. The service includes UBA and UFB bitstream services.
Local Fibre Companies	Companies formed with the Government's partners in the UFB initiative (other than Chorus) to deliver wholesale fibre services in certain areas: Northpower Limited, Ultrafast Fibre Limited and Enable Services Limited, and any such companies formed under the extension to the UFB initiative.

Maximum allowable revenue	A component of economic regulation whereby regulated suppliers are limited to recovering total revenues from customers up to a maximum specified amount. Suppliers would generally have discretion in how they price individual services in order to generate their maximum allowable revenue.
Merits review	An appeal right whereby the appellate Court is able to review the substance of a decision as opposed to only the process or compliance with the law.
Open access	An ‘open access’ network is one where the regulated supplier offers wholesale access to network infrastructure or services on non-discriminatory or ‘equivalence-of-inputs’ terms.
Price- or revenue-smoothing	The gradual adjustment of prices or revenues over time to avoid sudden movements or step changes. It can be undertaken in a present-value equivalent manner.
Price-quality regulation	Regulation of revenues and the quality of services (with the option of setting a cap on the overall revenues of the regulated business and/or on individual service pricing).
Part 4	Part 4 of the Commerce Act 1986, under which the Commerce Commission has a role regulating the price and quality of services in markets where there is little or no competition and little prospect of future competition.
Regulatory Asset Base (RAB)	The value of total investment by a regulated utility in the assets which will generate revenues over time.
Regulatory framework	The regulatory framework is the system of laws, regulations, rules, procedures and organisations within which the regulation of communications services takes place. Components include the access regime (and any associated price control), the regulatory decision maker, rules and procedures for decision making, requirements that regulated entities must comply with, and other matters.
Retail Service Provider (RSP)	A telecommunications provider offering services directly to end-users for their own consumption.
Specified services	Services where only non-price terms are regulated under the Telecommunications Act. For example, access providers are required to offer a national roaming service but are free to set prices commercially. See also designated services .
Structural separation	The 2011 structural separation of Telecom Corporation of New Zealand Limited into two separate entities, Chorus Limited (wholesale only infrastructure provider) and Telecom New Zealand, now Spark New Zealand Limited (a Retail Service Provider).

Telecommunications	Delivery of information over networks using broadband and telephone services, and associated activities.
Telecommunications Service Obligations	The telecommunications service obligations (TSO) are a set of obligations established under the Telecommunications Act to ensure certain telecommunications services are available and affordable. There are two current TSO services: the Deaf Relay Service, and a Local Service Obligation regarding the provision of residential telephone services.
UBA	Unbundled Bitstream Access (UBA) is a DSL-enabled service that enables access to, and interconnection with, part of Chorus' fixed Public Data Network. It provides RSPs with a managed bitstream service from an exchange to an end-user, so that the companies do not need to manage their own copper network equipment.
UCLL	Unbundled Copper Local Loop (UCLL) is a layer 1 unbundled copper local loop service. It enables access to, and interconnection with, Chorus' copper local loop network. The access seeker can combine the UCLL Service with network transport services and service level functionality to deliver services to end-users.
Unbundling	Unbundling allows an RSP to gain access to a layer 1 service on the UFB or copper network. An RSP typically installs its own layer 2 equipment at the exchange or cabinet, so that the RSP can offer its own broadband service as opposed to using a wholesale service provided by Chorus or the LFC. Developments in technology will potentially provide new forms of unbundling which are not necessarily reliant on physically installing equipment.
Utility regulation	Regulatory regimes traditionally developed for utilities such as electricity, gas and water. These regimes usually offer tiers of possible regulation, starting with information disclosure requirements, and then more intrusive forms of regulation such as price-quality control and/or arbitrate/negotiate regulation. Price control in utility-style regulation is usually based on BBM.

Annex: Summary of proposals

Part 1: UFB fibre regulatory framework

Issue	Proposal / Government view
Utility-style regulatory framework	The Government will implement a utility-style regulatory framework, with a BBM pricing methodology, for UFB fibre services.
Copper and fibre	BBM price-quality regulation will apply only to Chorus UFB fibre services. Copper services will be treated separately.
The role of input methodologies	The Commission will be required to set input methodologies for the regulation of UFB fibre services, mirroring the requirement under Part 4 of the Commerce Act (Part 4).
The role of information disclosure	Information disclosure regulation will apply to UFB fibre services provided by Chorus and LFCs from 1 January 2020.
Telecommunications Commissioner role	No changes are proposed to the Telecommunications Commissioner role in the short term. There will be a scheduled review of the Telecommunications Commissioner role by government after 2020, to ensure that the role is still relevant.
Revenue cap and number of RABs	For information disclosure, revenue and price-setting purposes, each UFB provider will have a single Regulated Asset Base. Each of Chorus' and LFC's fibre access infrastructures will be included in its RAB.
RAB valuation methodology	<p>The RAB valuation methodology will be determined by the Commission, subject to guidance from the Government that “the opening value of each regulated supplier’s RAB will be determined on the basis of the unrecovered historic costs incurred by the regulated supplier, but only to the extent those costs were efficiently incurred”.</p> <p>Additionally, in determining costs incurred for the RAB, the Commission must have regard to “the Government’s objectives of accelerating the widespread deployment of fibre-to-the-premise and encouraging end-user uptake,</p>

Issue	Proposal / Government view
	<p>including by ensuring that:</p> <ul style="list-style-type: none"> • efficient costs incurred as a direct result of meeting specific requirements in UFB or UFB extension programme contracts are included; • efficient costs of ‘standard’ and ‘non-standard’ installations are included; and • the value of the opening RAB is increased by the financial losses efficiently incurred by suppliers prior to 2020 to the extent that those losses arose from meeting specific requirements under the UFB or UFB extension programme contracts (including the timeframes for rollout and the prices that can be charged).”
Other decisions for the Commission	<p>The Commission will determine the scope of assets that are included in the RAB, based on the use of those assets in providing the ‘fixed line access services’ regulated under the new framework.</p> <p>We also propose that the treatment of the Government’s financial contributions to UFB; the approach to decommissioned assets; and the treatment of initial losses should be managed by the Commission subject to the guidance described above.</p>
Assessing the efficiency and prudence of capital expenditure	<p>There will be a role for the Commission to assess the extent to which infrastructure has been efficiently deployed when carrying out the initial RAB valuation (as above).</p> <p>A major capital expenditure pre-approval process will be put in place, based on the approach taken for Transpower under Part 4.</p>
Form of price-quality regulation	<p>Government will specify the form of price-quality regulation:</p> <ul style="list-style-type: none"> • a revenue cap; with • price-capped anchor products. <p>The Commission will have the power to investigate and recommend a change to the form of price-quality regulation from the second regulatory period (2023-), if statutory criteria are met (see below).</p>
Anchor products	<p>Two anchor products must be provided by suppliers subject to price-quality regulation from 2020:</p> <ul style="list-style-type: none"> • a voice-only UFB fibre service;

Issue	Proposal / Government view
	<ul style="list-style-type: none"> • a 'basic broadband' UFB fibre service, being based on the 100/20Mbps regulated service specified in the UFB contracts with Crown fibre Holdings. <p>The Commission will be able to classify a layer 1 UFB fibre service as an anchor product, with cost-oriented pricing, if a statutory test is met following an investigation (see below).</p>
Pricing of anchor products	<p>Anchor product price caps (from 1 January 2020) will be set at 2019 levels for equivalent products in the UFB contracts with Crown Fibre Holdings, and will be adjusted annually at the rate of inflation until the first price review in 2023.</p>
Layer 1 anchor product	<p>The existing obligation on UFB providers to unbundle the point-to-multipoint parts of the UFB network from 1 January 2020 will be retained. This service will not be an anchor product.</p> <p>The Commission will be able to classify a layer 1 fibre service as an anchor product, with cost-oriented pricing, if a statutory test is met following an investigation. After the first regulatory period is complete (from 2024) and where fibre uptake across the UFB initiative exceeds 65%, the Commission will be able to commence an investigation into this matter (and others, as discussed below) if it believes there are reasonable grounds to do so.</p> <p>These pre-conditions provide stability during the transition, and ensure that any investigation into unbundling or other changes can only take place once uptake has stabilised to a level where the need for such changes can reasonably be assessed.</p> <p>The Commission will make a final recommendation to the Minister for Communications, who will approve, decline or seek reconsideration of the recommendation.</p>
Updating anchor products	<p>Before each regulatory period (except the first), the Commission will be required to review and update the anchor product set against statutory criteria. The anchor product set must:</p> <ul style="list-style-type: none"> • provide an upper limit on pricing for a product that is attractive to a large number of end-users; and • provide a price and quality 'anchor' for the other 'non-anchor' products provided by regulated suppliers.
Consistency between Chorus and LFCs	<p>Anchor product prices will be set at 2019 UFB contract levels from 2020, which are the same for all the UFB providers. However LFCs will not be subject to price-quality regulation from 2020.</p>

Issue	Proposal / Government view
Non-anchor products	<p>Price and quality terms for non-anchor products will be at the supplier's discretion, subject to the requirement to provide a layer 1 unbundled UFB service, the revenue cap and the following minimum requirements:</p> <ul style="list-style-type: none"> • UFB providers must conduct industry consultation on price and material non-price terms for commercial services and give at least 6 months' notice for changes; • prices for commercial services must be geographically averaged within that UFB provider's network; and • UFB providers will be subject to a commitment to ongoing service development and RSP engagement.
Deeds of undertaking for open access	<p>The deeds of undertaking for open access will remain in place. Where multiple deeds are in place for a single supplier, they will be consolidated without any change to the obligations.</p>
Retaining flexibility as the market matures: the Commission can recommend changes to the form of control	<p>As above, after the first regulatory period is complete (from 2024) and where fibre uptake across the UFB initiative exceeds 65%, the Commission will be able to commence an investigation into changing the form of regulatory control (for example to price caps) or other matters if it believes there are reasonable grounds to do so.</p> <p>The Commission will make a final recommendation to the Minister for Communications, who will approve, decline or seek reconsideration of the recommendation.</p>
Setting price and non-price terms	<p>Price and non-price terms for anchor products will be set by the Commission in determinations, similar to section 52P determinations in the Commerce Act.</p>
Implementation: Chorus	<p>Both price-quality regulation and information disclosure regulation will apply to Chorus' fibre access network from 1 January 2020.</p>
Implementation: LFCs	<p>LFCs' fibre access services will only be subject to information disclosure from 1 January 2020, with price-quality regulation able to be introduced at any time by the Commission if an intervention test is satisfied.</p>
Intervention test	<p>A specific intervention test will be set in legislation for the introduction of price-quality regulation. This test will be based on the application of the new purpose statement.</p>
Legislative vehicle – Telecommunications Act	<p>The new framework will be set out in a new part of the Telecommunications Act, which will be based on appropriate settings from Part 4 of the Commerce Act.</p>

Issue	Proposal / Government view
Purpose statement	A new purpose statement will be introduced for the regulatory framework for UFB fibre services, based on the purpose statement in section 52A of the Commerce Act.
Adding and removing suppliers	There will be a process within the new framework that provides for introducing new regulated suppliers of UFB fibre services in the future, and for modifying or removing them. This will be limited to suppliers of UFB fibre services (i.e. Chorus and all current and future LFCs).
Appeal rights	Merits review rights mirroring those in Part 4 of the Commerce Act will be introduced for the UFB fibre framework. No change will be made to existing appeal rights relating to pricing processes in the Telecommunications Act.
Backdating and claw-backs	To maintain consistency with Part 4, mandatory 'claw-backs' will be in place for some decisions relating to fixed line services under the new framework. They will not be extended to the existing framework in the Telecommunications Act.
Managing the transition	There will be an explicit policy objective of minimising revenue and price volatility during the transition to the new framework.
Transitional arrangements	If the Commission is unable to implement the new framework by 2020, price and non-price terms for UFB fibre products in the market in December 2019 will be temporarily "frozen" with indexation for up to 24 months with the prior written consent of the Minister for Communications.

Part 2: Copper services

Issue	Proposal / Government view
Separate treatment of copper services	Copper services will not be included in the utility-style BBM framework for fibre.
Continued copper regulation	Outside areas where UFB or other (non-UFB) fibre services are available, Chorus will be required to continue

Issue	Proposal / Government view
outside areas with UFB or other fibre available	providing the ‘unbundled bitstream access’ (UBA) wholesale copper broadband product as well as the ‘unbundled copper low frequency service’ (UCLFS) wholesale copper voice product on the same terms as it is required to do so on 31 December 2019.
Pricing of regulated copper services	The 2019 regulated prices for UBA and UCLFS, which have been set by the Commission, will be ‘rolled over’ annually in nominal terms and continue to apply to those copper services that remain regulated from 1 January 2020.
Deregulation of copper services inside areas with UFB or other fibre available	On 1 January 2020, copper services will be deregulated inside areas where UFB and other (non-UFB) fibre services are available.
Regular review mechanism for ongoing deregulation of copper	After 1 January 2020, there will be a regular review mechanism whereby further deregulation of copper can take place as fibre is rolled out. Deregulation of a particular area will be subject to the Minister for Communications being satisfied that fibre is sufficiently widely available in that area.
Review of copper pricing in 2023	The pricing framework for copper services be reviewed by the Commission no later than 2023 to ensure it remains fit for purpose, with the Commission making recommendations whether to continue with the arrangements or modify them (for example, by re-regulating copper services if necessary). Final decisions will be made by the Minister for Communications.
TSO to be removed inside areas with UFB or other fibre available	The Telecommunications Service Obligation for Local Residential Telephone Service (TSO) will be removed from Chorus and Spark inside areas with UFB or other (non-UFB) fibre from 1 January 2020.
TSO to be retained outside areas with UFB or other fibre available	The TSO obligations will be retained on Chorus and Spark outside areas with UFB or other (non-UFB) fibre (to the outside TSO coverage footprint that applies today).
Regular review mechanism for ongoing removal of TSO	The same regular review mechanism for copper will be used for reviewing the removal of the TSO obligations from Chorus and Spark over time.
Copper withdrawal	Where copper is deregulated, Chorus will have the option of withdrawing service and removing the copper

Issue	Proposal / Government view
	network, and will be able to do this according to its own timeframes. However some minimum customer protection requirements will apply
Customer protection requirements in regulated code	The customer protection requirements will be implemented in a regulated code that applies to RSPs as well as Chorus and LFCs.
Minimum customer protection requirements	<p>The code will include certain requirements that must be met before Chorus is able to withdraw copper:</p> <ul style="list-style-type: none"> • the availability of fibre services to the customer premise and the ability to install a UFB connection (if necessary) at no cost (except where the connection falls outside the ‘standard’ and ‘non-standard’ installation categories) to all affected premises in a reasonable time frame, so that end-users do not face a ‘gap’ without service when copper is withdrawn and before UFB is connected; • notice to be provided by Chorus, followed by a reasonable period of time to enable customers and RSPs to prepare before copper is withdrawn; • services currently able to be provided over copper must be available over fibre (except for legacy services such as facsimile); • information must be provided to customers about the change and the availability of services after the change (including in relation to the need for battery back-up on UFB services in the event of a power failure); and • anchor products are available on the UFB network.