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Telecommunications Review Team
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UNISON SUBMISSION – TELECOMMUNICATIONS ACT REVIEW: POST-2020 REGULATORY FRAMEWORK FOR FIXED LINE SERVICES

Introduction

Unison Networks Limited (Unison) welcomes the opportunity submit on the Ministry of Business, Innovation and Employment's (MBIE) consultation paper – *Telecommunications Act Review: Post-2020 Regulatory Framework for Fixed Line Services*. Unison has also submitted on the previous two consultation papers: *Regulating Communications for the Future*¹ and the *Telecommunications Act Review Options Paper*².

Background to Unison

Unison is an electricity distribution business that operates in the Hawke's Bay, Taupo and Rotorua areas. The wider Unison Group includes the subsidiary company, UnisonFibre Limited, a wholesale provider of fibre via a fibre optic network. UnisonFibre's network spans over 700km throughout the same regions as our electricity services. UnisonFibre has a unique role in the telecommunications industry as it is not a local fibre company (LFC) contracted to Crown Fibre Holdings (CFH). UnisonFibre is instead one of a few wholesale fibre businesses that are in direct competition with other wholesalers, such as Chorus. As such, any regulatory intervention will not directly apply to UnisonFibre. However, the business still has a strong interest in the development of the fibre regulatory regime as it will influence the price and development of our product offerings.

Unison's Key Submission Points

This submission discusses the following:

1. support for the UFB fibre services regulatory framework
2. anchor products and regional variance, and
3. support for regulatory separation of UFB fibre-based services and the copper network.

The views expressed in this submission represent those of the whole Unison Group.

¹ Unison (27 October 2015). *Unison Submission on Regulating Communications for the Future*.

² Unison (31 October 2016). *Unison Submission on Telecommunications Act Review: Options Paper*.

1. Decision on the Regulatory Framework

MBIE has confirmed that it intends to implement the following regulatory regime for UFB fibre services from 1 January 2020:

- Information disclosure regulation (for both LFCs and Chorus).
- Price-quality regulation (only for Chorus). This will feature an annual maximum allowable revenue (MAR) and calculated based on a building blocks methodology (BBM).

Unison supports the implementation of the regulatory framework for UFB fibre services, and we will follow the development of the RAB scope and valuation methodology, in particular, with interest. However, Unison still has concerns that the development and implementation of the input methodologies (IMs) for the BBM will be a challenge to achieve before the start of the 2020. We reiterate our support for transitional arrangements to be in place as a back-up should the development of the regime not meet the 2020 deadline (e.g. price and non-price terms for UFB fibre products will be temporarily frozen for up to 24 months).

2. Anchor Products and Regional Variance

The consultation paper confirms that the price-quality regulation will involve setting a MAR in conjunction with two regulated UFB fibre 'anchor products'. MBIE proposes that there will initially be two anchor products: basic broadband (100/20Mbps) anchor product and a voice-only anchor product. It is intended that 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.

Unison has two concerns with the combination of an anchor product / MAR approach. Firstly, the rate of change of fibre product offerings may mean that the 100/20Mbps offering may well be out-dated even before the regulatory regime is implemented. Unison submits that the 100/20Mbps fibre anchor product should be confirmed as close to the implementation date of 1 January 2020 as possible.

Secondly, Unison remains concerned that the MAR in combination with anchor products may give Chorus flexibility to undercut prices in UFB regions where there is fibre network competition (e.g. on Unison's network in Hawkes Bay, Taupo and Rotorua). Regional variance in terms of product prices is an issue Unison has raised in previous submissions to MBIE. E.g. Chorus offering regionally variable products outside the set 'anchor product' offerings could be considered anti-competitive.

Unison notes that MBIE has confirmed that the following minimum requirements will apply for non-anchor products:

- 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.

The second bullet above (prices must be geographically averaged within that UFB provider's network) is likely to assist as a regulatory safeguard for regional variance. Unison will closely follow the wording of this proposal as it is drafted in the Bill.

3. Regulatory Separation of Copper and Fibre Networks

MBIE has proposed to implement a new approach to separate the regulatory treatment of copper and fibre networks. The approach for copper networks will include the following:

- **Outside areas where UFB or other fibre is available:** Chorus will be required to continue supplying regulated copper services 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 process, which will also require the Minister for Communications to be satisfied that fibre is sufficiently widely available in that area.³

Unison supports the decision to separate the regulatory treatment of the copper and fibre networks, particularly as the copper network is nearing the end of its useful life. In addition, the two networks were commissioned under different regulatory environments and investments were made based on a different set of risk-reward trade-offs.

Unison also supports the proposals around deregulating copper in UFB / fibre coverage areas (as set out above) in conjunction with the safeguards MBIE as proposed⁴. However, Unison submits that there needs to be clear directive around the notice period Chorus needs to provide before withdrawing copper service. The consultation paper states: "*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*"⁵. Unison would expect to see this time set out explicitly to avoid any interpretation around what is deemed reasonable.

Concluding Comments

Overall, Unison is largely supportive of the policy direction MBIE has taken in the treatment of the regulation of fibre and copper networks. We will continue to actively watch the development of the Bill and the Commerce Commission's IMs.

³ MBIE (February 2017). *Telecommunications Act Review: Post-2020 Regulatory Framework for Fixed Line Services*. Pages 5-6.

⁴ MBIE (February 2017). *Telecommunications Act Review: Post-2020 Regulatory Framework for Fixed Line Services*. Page 7.

⁵ Ibid.

For any questions on the points raised in this submission, please contact Roanna Vining
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Yours sincerely

A handwritten signature in black ink, appearing to read 'Roanna Vining' in a cursive style.

GENERAL MANAGER, BUSINESS ASSURANCE

A second handwritten signature in black ink, identical to the one above, appearing to read 'Roanna Vining' in a cursive style.