

Declaration of anchor and direct fibre access services

MBIE Discussion Document

2degrees Submission, 22 June 2021





1 Introduction

Thank you for the opportunity to comment on the proposed declaration of anchor and direct fibre access services, including the exposure draft of regulations to be made under sections 227 and 228 of the Telecommunications Act.

2 The declared services must be capable of delivering effective backstop services

The anchor and direct fibre access services declared in these regulations are what RSPs will rely on to deliver consumer services in the event Chorus' non-declared services fall short of expectations.

As such, it is important that the Government ensures these services are sufficiently defined in the regulations to enable RSPs to use them in practice.

This is consistent with the purpose of the regulations:

- To ensure voice and basic broadband services are available to end-users at reasonable prices; and
- To act as an appropriate constraint (or “anchor”) on the price and quality of other fibre fixed line anchor services.

3 Our expectation is that Chorus will provide attractive non-declared services

As set out our previous submissions to MBIE, 2degrees supports a higher speed anchor service. We consider that this is what is required to appropriately constrain “the price and quality of other fibre fixed line anchor services”, including over the initial regulatory period (as required by the purpose above).

We expect many of our fixed line consumers to demand more than the 100/20 Mbps base speed of the proposed anchor product. Increasing volumes of our consumers are choosing our higher speed products, in particular, 2degrees' Ultimate Unlimited plan (up to 900/400 Mbps, which is based off '1Gbps' wholesale inputs). We note Enable, in a current proposal to Government, is proposing to provide 'entry' services to consumers in social housing using a 1Gbps wholesale service, not a 100/20 Mbps product.¹

Our expectation is that Chorus will provide attractive non-declared fibre fixed line access services. These will be required to meet consumer demand. Such services will be particularly important if only a lower quality anchor service of 100/20 Mbps - which won't meet the demands of many consumers - is declared by Government, as proposed.

Chorus (and other LFC) services/products will need to evolve with the market, and we expect that these will be the primary wholesale products RSPs purchase. This is similar to

¹ MBIE Discussion Document, Proposal for a Local Fibre Company to provide Layer 3 and 4 Services to a Social Housing Provider, May 2021.



the experience with other regulated services – Chorus offers commercial variants of regulated services that RSPs take up. The regulated services, in this case anchor and DFAS services, are important both to support appropriate commercial variants and as a regulatory backstop.

4 2degrees support MBIE’s proposal to reference both UFB reference offers and other related documentation directly in the regulations

Given the provisions of the revised Telecommunications Act, we generally support MBIE’s proposal to incorporate by reference existing Reference Offers (albeit with some changes to these Reference Offers, to be incorporated in Schedule 2, as set out below).

We also support the regulations incorporating by reference, the other documents MBIE has proposed (including service level terms, operations manuals, general terms, and technical standards). It is important to include these as part of the regulated service – they are essential to enable the actual provision of these services and without these, the services will not be an effective regulatory backstop.

Including these references does not prevent Chorus from evolving other non-declared services.

5 Further changes are required to ensure effectiveness

We note that, in addition to concerns regarding the speed of the proposed anchor service, there are some key ‘gaps’ in the declared service definitions. These gaps need to be addressed so that these services can be effectively provided to consumers and meet the purpose of the regulations.

A significant gap identified is that, as currently drafted, the handover or jumpering services, and other important accompanying services RSPs require to deliver the anchor or DFAS services, are not included.

We consider MBIE needs to at least specify in the regulations:

- *Safeguards for availability and pricing of handover links related to anchor services:* If handover links that are required to be able to use anchor services are not provided on a reasonable basis, then the anchor service will be ineffective. We consider *at a minimum*, this could be achieved by linking prices to the existing handover link prices in the existing *Chorus UFB Services Agreement Bitstream Services: Service Description for UFB Handover Connection Reference Offer June 2017*² (as per the anchor services, with an inflation adjustment³). In addition, ensuring that the handover

² See:

<https://company.chorus.co.nz/sites/default/files/downloads/Chorus%20UFB%20Services%20Agreement%20UFB%20Handover%20Connection%20Service%20Description%20-%20June%202017.pdf>

³ Given telecommunications prices are generally decreasing, rather than increasing, we do not support FFLAS input prices increasing by general inflation annually in practice.



links available to commercial variants can be used (i.e. 'special', more expensive, links are not required for anchor services that would deter take-up of these).

- *Safeguards for availability and pricing of jumpering for DFAS:* As for anchor services, use of the regulated DFAS product also relies on the availability and pricing of related jumpering services. Given DFAS is used as a key wholesale input to provide competing retail services to Chorus fibre products, we are particularly concerned that the current draft regulations do not incorporate a jumpering service. A jumpering service for DFAS should be incorporated in the regulations. This could be achieved by referencing the existing *Chorus UFB Services Agreement, Direct Fibre Access Services: Service Description for Jumpering service, Reference Offer, June 2017*⁴.

In general, we expect Chorus to appropriately provide/support the regulated service to RSPs as required, which includes appropriate provision of other related products (such as colocation and ICABS) that if not provided would hinder the use of the regulated service.

6 We support open-ended regulated service

2degrees agree with MBIE that the period during which Chorus must provide the regulated services should be open-ended. We do not consider declared services should lapse when a decision has not been made. Regulations should continue in force unless a review recommends any changes.

⁴ See:

<https://company.chorus.co.nz/sites/default/files/downloads/Chorus%20UFB%20Service%20Agreement%20Jumpering%20Service%20Service%20Description%20-%20June%202017.pdf>