

ANNEX B – ALTERNATIVE DRAFT REGULATIONS

Telecommunications (Regulated Fibre Services) Regulations [date]

Governor-General

Order in Council

At Wellington this day of date

Present:
in Council

These regulations are made under sections 227, 228, and 230 of the Telecommunications Act 2001—

- 1 on the advice and with the consent of the Executive Council; and
- 2 on the recommendation of the Minister for the Digital Economy and Communications given in accordance with sections 227, 228, and 230 and clauses 13 to 15 of Schedule 1AA to that Act.

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Regulations

1 Title

These regulations are the Telecommunications (Regulated Fibre Services) Regulations [date].

2 Commencement

These regulations come into force on [date].

3 Interpretation

In these regulations, unless the context otherwise requires,—

100/20 Bitstream 2 Accelerate Service means the fibre fixed line access service described in Schedule 1

access seeker means, in relation to the anchor services and direct fibre access service, a person who seeks access to the service from the regulated fibre service provider

Act means the Telecommunications Act 2001

anchor service has the meaning given in section 164(1) of the Telecommunications Act 2001

Commission has the meaning given in section 5 of the Telecommunications Act 2001

CPI has the meaning given in section 5 of the Telecommunications Act 2001

direct fibre access service has the meaning given in section 164(1) of the Telecommunications Act 2001

fibre fixed line access service has the meaning given in section 5 of the Telecommunications Act 2001

fibre-to-the-premises access network has the meaning given in section 156AB of the Telecommunications Act 2001

Large-User Direct Fibre Access Service means the fibre fixed line access service described in Schedule 3

premises has the meaning given in section 2 of the Residential Tenancies Act 1986

POI area means a ‘UFB geographic area’ listed in the Notice of points of interconnection under section 231 of the Telecommunications Act 2001 issued by the Commission on 19 December 2019

regulated fibre service provider has the meaning given in section 5 of the Telecommunications Act 2001

residential premises means—

- (a) premises that are used or intended for occupation by a person principally as a place of residence; but
- (b) does not include premises that constitute any part of premises described in section 5(1)(c) to (k) of the Residential Tenancies Act 1986 (which refers to places such as jails, hospitals, hostels, hotels, and other places providing temporary accommodation).

UFB1 area means an area where fibre-to-the-premises access network has been installed under the programme referred to in paragraph (a) of the definition of UFB initiative in section 5 of the Telecommunications Act 2001

UFB2 area means an area where fibre-to-the-premises access network has been installed under the programme extension referred to in paragraph (b)(i) of the definition of UFB initiative in section 5 of the Telecommunications Act 2001

UFB initiative has the meaning given in section 5 of the Telecommunications Act 2001

Voice Service means the fibre fixed line access service described in Schedule 2

4 Declaration of anchor service

These regulations declare that the 100/20 Bitstream 2 Accelerate Service and Voice Service are anchor services.

5 Declaration of direct fibre access service

These regulations declare that the Large-User Direct Fibre Access Service is a direct fibre access service.

6 Prescribed matters for anchor services and direct fibre access service

- (1) A regulated fibre service provider must, for each anchor service and direct fibre access service, maintain a standard offer that contains sufficient terms to allow, without the need for an access seeker to enter another agreement with the regulated fibre service provider, the provision of that anchor service or direct fibre access service and must:
 - (a) include a wholesale services agreement;
 - (b) reflect the description and maximum prices set out in Schedules 1 to 3 as adjusted in accordance with sub-regulation (3) in relation to that service; and
 - (c) include the conditions of supply set out in Schedules 1 to 3 in relation to that service.
- (2) Subject to sub-regulation (3), the maximum price able to be charged by a regulated fibre service provide for each anchor service and direct fibre access service is the price set out in its corresponding Schedule.
- (3) The maximum price for each anchor service and direct fibre access service is subject to an annual CPI adjustment to take effect on 1 July each year. The adjustment will take place as follows:
 - (a) Each year during the period these regulations are in force, the Commission must calculate the CPI adjustment being an adjustment to the maximum price equal to the change in CPI for the year to 31 March.
 - (b) The Commission must notify each regulated service provider subject to these regulations of the adjustment to the maximum price by no later than 30 April of the year the adjustment takes effect.

7 Further terms in standard offer

In providing the anchor services and direct fibre access service, the regulated fibre service provider will establish terms and conditions of supply which may include further definitions, obligations and constraints in relation to the matters set out in the Schedules to these regulations. Such further definitions, obligations and constraints

are permissible provided they are not materially inconsistent with the express terms of these regulations.

8 Enforcement

For the avoidance of doubt:

- (1) The requirement to maintain a standard offer that complies with these regulations is a price-quality requirement for the purposes of section 215 of the Act.
- (2) The terms included in an offer that complies with these regulations:
 - (a) are not a price-quality requirement for the purposes of section 215 of the Act; and
 - (b) may be enforced as a contract by access seekers who have signed the terms and Chorus as parties to the contract.

9 Discharge of obligation to provide direct fibre access service under open access undertakings

- (1) Chorus is discharged from its obligations to supply the Direct Fibre Access Service under the following undertakings entered into in accordance with section 156AD of the Act:
 - (a) Chorus Limited Deed of Open Access Undertakings for Fibre Services dated 6 October 2011; and
 - (b) Chorus Limited Deed of Open Access Undertakings for Fibre Services for UFB2 dated 22 June 2017
- (2) In subclause (1) Direct Fibre Access Service has the meaning given in the respective undertakings referred to in paragraphs (a) and (b).

Schedule 1

Service description, conditions and maximum price for the 100/20 Bitstream 2 Accelerate Service

The description, conditions and maximum price of the service declared to be an anchor service in these regulations are set out below.

100/20 Bitstream 2 Accelerate Service

<i>Description of service:</i>	Accelerate GPON Bitstream 100 Mbps down / 20 Mbps up with 2.5 Mbps CIR symmetrical with ATA port
<i>Service providers who seek access to the service:</i>	Access seekers as defined in regulation 3
<i>End users:</i>	Residential premises
<i>Geographic area:</i>	The service must be available to premises passed by a fibre-to-the-premises access network constructed in accordance with the UFB initiative, as those terms are defined in regulation 3
<i>Conditions:</i>	The regulated fibre service provider must include service levels in the terms of service which meet or exceed the minimum service levels applicable to the 100/20 Bitstream 2 Accelerate Service as set out in Schedule 4
<i>Maximum price:</i>	\$47.87 for the period from 1 January 2022 to 1 July 2022, and in each subsequent annual period the price for the previous period increased or decreased (as appropriate) by an annual CPI adjustment

Schedule 2

Service description, conditions and maximum price for the Voice Service

The description, conditions and maximum price of the service declared to be an anchor service in these regulations are set out below.

Voice Service

<i>Description of service:</i>	Voice only service over fibre
<i>Service providers who seek access to the service:</i>	Access seekers as defined in regulation 3
<i>End users:</i>	Residential premises
<i>Geographic area:</i>	The service must be available to premises passed by a fibre-to-the-premises access network constructed in accordance with the UFB initiative, as those terms are defined in regulation 3

- Conditions:* The regulated fibre service provider must include service levels in the terms of service which meet or exceed the minimum service levels applicable to the Voice Service as set out in Schedule 4
- Maximum price:* \$26.02 for the period from 1 January 2022 to 1 July 2022, and in each subsequent annual period the price for the previous period increased or decreased (as appropriate) by an annual CPI adjustment

Schedule 3 Service description, conditions and maximum price for the Large-User Direct Fibre Access Service

The description, conditions and maximum price of the service declared to be a direct fibre access service in these regulations are set out below.

Large-User Direct Fibre Access Service

- Description of service:* Point-to-point dark fibre (central office to end-user premises or access point)
- Service providers who seek access to the service:* Access seekers as defined in regulation 3
- Geographic area:* The service must be available to premises and access points passed by a fibre-to-the-premises access network constructed in accordance with the UFB initiative, as those terms are defined in regulation 3
- Conditions:* The regulated fibre service provider must include service levels in the terms of service which meet or exceed the minimum service levels applicable to the Large-User Direct Fibre Access Service as set out in Schedule 4
- Maximum price:* \$369.41 for the period from 1 January 2022 to 1 July 2022, and in each subsequent annual period the price for the previous period increased or decreased (as appropriate) by an annual CPI adjustment

Schedule 4 Service levels

The minimum conditions applying to the supply of the services as indicated are:

Service attribute	Condition	Application
Maximum restoration time	<p>All faults must be restored by the end of the day following the day on which downtime is reported to the regulated fibre service provider.</p> <p>The regulated fibre service provider will apply a service credit of one month's rental fee for the relevant service(s) each time this service level is not met.</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • 100/20 Bitstream 2 Accelerate Service • Voice Service • Large-User Direct Fibre Access Service
Installation time – intact connections	<p>For intact connections capable of remote activation, except where the access seeker or end user has requested provisioning at a later date:</p> <ul style="list-style-type: none"> • 90% of services are to be provisioned within four business hours of the request for service being made; and • 100% of services are to be provisioned within one business day of the request for service being made. <p>The regulated fibre service provider will apply a service credit of one month's rental fee for the relevant service(s) (specified in the service request) each time this service level is not met.</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • 100/20 Bitstream 2 Accelerate Service • Voice Service
Installation time – new connections	<p>Median time between order date and installation in each POI area should be no greater than:</p> <ul style="list-style-type: none"> • 40 days for simple orders (SDU's, MDU's and ROWs that have existing communal infrastructure,) • 75 days for complex orders (new communal infrastructure required in an MDU or ROW and NBAP orders) <p>Simple orders not completed within 50 days of the order date and complex orders not completed within 120 days of the order date will be subject to jeopardy management, except where the access seeker or end user has requested installation at a later date.</p> <p>Jeopardy management means the regulated service provider will determine and provide to the access seeker the critical path for applicable orders that records individual milestones required to achieve connection of those orders.</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • 100/20 Bitstream 2 Accelerate Service • Voice Service
Installation time – commitment met	<p>The regulated fibre service provider must complete installation of a connection on the date agreed between the access seeker or end user (as applicable) and the regulated fibre service provider via the ordering and booking system designated by the regulated service provider, and must apply a service credit of one month's rental fee for the</p>	<p>Applies to:</p> <ul style="list-style-type: none"> • 100/20 Bitstream 2 Accelerate Service • Voice Service

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	<p>relevant service(s) (specified in the service request) each time this service level is not met.</p> <p>To avoid doubt where the regulated fibre service provider reschedules a connection, a service credit must be applied as described above. Where the access seeker or end user reschedules a connection no service credit is payable.</p>	<ul style="list-style-type: none"> Large-User Direct Fibre Access Service 																												
Disconnections	<p>Each disconnection must be completed within one business day following receipt of a properly completed order from an access seeker (or such later date as agreed between the access seeker and end user).</p> <p>The regulated fibre service provider will apply a service credit of 10% of the applicable monthly rental fee for the relevant service(s) per three hour period the disconnection is late (capped at one month's rental).</p>	<p>Applies to:</p> <ul style="list-style-type: none"> 100/20 Bitstream 2 Accelerate Service Voice Service Large-User Direct Fibre Access Service 																												
Traffic performance	<p>In UFB1 areas layer 2 traffic must be delivered to the POI within the following service levels measured over each five minute interval:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th>Frame delay must be:</th> <th>Frame delay variation must be:</th> <th>Frame loss must be:</th> </tr> </thead> <tbody> <tr> <td>CIR</td> <td>≤ 5 mS</td> <td>≤ 3 mS</td> <td>≤ 0.1%</td> </tr> <tr> <td>EIR</td> <td>n/a</td> <td>n/a</td> <td>≤ 2%</td> </tr> </tbody> </table> <p>In UFB2 areas layer 2 traffic must be delivered to the POI within the following service levels measured over each five minute interval:</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th></th> <th>Frame delay must be:</th> <th>Frame delay variation must be:</th> <th>Frame loss must be:</th> </tr> </thead> <tbody> <tr> <td>CIR Primary</td> <td>≤ 7 mS</td> <td>≤ 3 mS</td> <td>≤ 0.1%</td> </tr> <tr> <td>CIR Secondary</td> <td>≤ 12 mS</td> <td>≤ 3 mS</td> <td>≤ 0.1</td> </tr> <tr> <td>EIR</td> <td>n/a</td> <td>n/a</td> <td>≤ 2%</td> </tr> </tbody> </table> <p>CIR Secondary applies for up to 96 hours following the failure of a primary backhaul link in a POI area.</p> <p>Terms must specify how traffic performance service levels are to be measured.</p>		Frame delay must be:	Frame delay variation must be:	Frame loss must be:	CIR	≤ 5 mS	≤ 3 mS	≤ 0.1%	EIR	n/a	n/a	≤ 2%		Frame delay must be:	Frame delay variation must be:	Frame loss must be:	CIR Primary	≤ 7 mS	≤ 3 mS	≤ 0.1%	CIR Secondary	≤ 12 mS	≤ 3 mS	≤ 0.1	EIR	n/a	n/a	≤ 2%	<p>Applies to:</p> <ul style="list-style-type: none"> 100/20 Bitstream 2 Accelerate Service Voice Service
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Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.