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Communications Policy Team  
Ministry of Business, Innovation & Employment (MBIE)  
PO Box 1473  
Wellington 6140

By Email: [Communicationspolicy@mbie.govt.nz](mailto:Communicationspolicy@mbie.govt.nz)

Dear Osmond

## Telecommunications (Fibre Regulatory Settings) Regulations 2019 - Exposure Draft

2degrees appreciates the opportunity to comment on MBIE's exposure draft regulations to be made under section 226 of the Telecommunications Act 2001 (the Act). Given section 226 regulations will define both regulated service providers and the scope of regulated services offered by those providers, it is essential that they reflect the scope and purpose of Part 6 of the Act.

Part 6 of the Act regulates *all* Fibre Fixed Line Access Services (FFLAS). As such, MBIE's draft regulations, which regulate all LFCs (including Chorus) and "All fibre fixed line access services" are appropriate.

FFLAS services are defined in section 5 of the Act as telecommunications services that "enable access to, and interconnection with, a regulated fibre service provider's fibre network". These include a range of services including dark fibre access services (DFAS) and intra candidate area backhaul services (ICABS), as well as services such as co-location.

We are aware that some LFCs are seeking to redefine the scope of FFLAS by excluding ICABS. It was clarified to legislators that ICABS are a FFLAS. For example, MBIE confirmed to the Select Committee that "*DFAS and ICABS are both fibre fixed line access services and will be subject to regulatory oversight under the new Part 6*".<sup>1</sup>

FFLAS services, including DFAS and ICABS, are critical inputs to multiple telecommunications services, including wireless services. DFAS and ICABS are subject to limited competition (including no competition in some areas) and will become increasingly important with growing data demand and 5G network deployments. While not proposed by MBIE, we note it would be inappropriate, and inconsistent with the wording and section 166 purpose statement of the Act, for the new Part 6 regulations to remove regulatory oversight of these services.

Under the Act and associated regulations, the Commerce Commission will assess how price-quality and information disclosure regulations will apply to various FFLAS services.

Please let me know if you have any queries.

Yours sincerely

Sara Lipanovic  
**Head of Regulatory**

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<sup>1</sup> Telecommunications (New Regulatory Framework) Amendment Bill, Departmental Report to the Economic Development, Science and Innovation Committee, 20 April 2018, at Appendix 2 page 20.

