

Fibre Deregulation Review under section 210 of the Telecommunications Act

Draft recommendation to the Minister for Media and Communications on Point-to-point, Transport, and Co-location and interconnection Fibre Fixed Line Access Services

The Commission:

Tristan Gilbertson
Nathan Strong
Loretta Lovell

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Associated documents

Publication date	Reference	Title
27 August 2024	978-1-991287-59-5	Fibre fixed line access service deregulation review under section 210 of the Telecommunications Act - Reasonable grounds assessment draft decision
19 December 2024	978-1-99-133213-4	Fibre fixed line access service deregulation review under section 210 of the Telecommunications Act - Reasonable grounds assessment final decision
30 October 2025	978-1-991414-23-6	Draft framework for fibre deregulation reviews - Under section 210 of the Telecommunications Act 2001
30 October 2025	978-1-991414-22-9	Fibre Deregulation Review – Voice Services – Draft Recommendation Paper
31 March 2026	978-1-991414-81-6	Fibre Deregulation Review – Voice Services – Final Recommendation Paper
31 March 2026	978-1-991414-65-6	Final framework for fibre deregulation reviews – Under section 210 of the Telecommunications Act 2001

Glossary

Table of terms and abbreviations

ACCC	Australian Competition and Consumer Commission
Act	Telecommunications Act 2001
ComReg	Commission for Communications Regulation (Ireland)
Commission	The Commerce Commission
DFAS	Direct Fibre Access Service
Districts	Territorial Authority boundaries maintained by StatsNZ – local government area administered by a city or district council
DMR	Digital Microwave Radio
DVR	District Valuation Roll
End-user	A person who is the ultimate recipient of a telecommunications service or of another service whose provision is dependent on that service
FFLAS	Fibre Fixed Line Access Services as defined in section 5 of the Act
FWA	Fixed Wireless Access
HSNS	High Speed Network Services
ID	Information Disclosure
LEO	Low Earth Orbit satellite — orbit the earth below 2,000km
LFC	Local Fibre Company (Chorus, Northpower, Enable and Tuatahi). Also referred to as ‘regulated providers’ throughout this draft report
LFC + ≥1	An infrastructure-based analytical benchmark based on the presence of the regulated incumbent LFC and at least one additional sufficiently competitive fibre network (capable of materially influencing competition and market outcomes as in a workably competitive market), indicating infrastructure-based competition among two or more fibre providers.
LFC + ≥2	An infrastructure-based analytical benchmark based on the presence of the regulated incumbent LFC and at least two additional sufficiently competitive fibre networks (capable of materially influencing competition and market outcomes as in a workably competitive market), indicating infrastructure-based competition among three or more fibre providers.
LINZ	Land Information New Zealand
Minister	The Minister for Media and Communications
MAS	Mobile Access Services
MNO	Mobile Network Operator
NBAP	Non-building access points

Table of terms and abbreviations

Ofcom	Office of Communications (UK)
OIA	Official Information Act 1982
POA	Point of Aggregation
POI	Point of interconnection - A central office location with Co-location facilities containing a fibre handover point that enables access seekers to connect to an LFC's services.
POI Area	UFB geographic area listed in “Notice of points of interconnection under section 231 of the Telecommunications Act 2001” (27 March 2024).
PQ	Price-quality
RFI	Request for information
RSP	Retail Service Provider
SA1	Statistical Area 1 geography maintained by StatsNZ – the physical equivalent of a city or rural block and contain 100–200 residents
SA2	Statistical Area 2 geography maintained by StatsNZ - 1,000–4,000 residents represent suburbs or rural communities. We refer to these as “suburbs”
SFA	Specified Fibre Area
SPOI	A POI prescribed in “Notice of points of interconnection under section 231 of the Telecommunications Act 2001” (27 March 2024), also referred to as ‘specified POI’ in this draft report
StatsNZ	Statistics New Zealand
UCLL	Unbundled Copper Local Loop
UFB	Ultra-Fast Broadband initiative - The competitive tender programme and any extension to that programme
WPZ	Wholesale Pricing Zone

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Executive summary

We are reviewing whether the regulation of three fibre services still benefits end-users

Regulation under Part 6

- X1 Part 6 of the Telecommunications Act 2001 (**Act**) provides for the regulation of fibre networks in New Zealand. This includes powers for the Commerce Commission (**Commission**) to:
 - X1.1 set rules requiring the disclosure of information about the performance of fibre providers – information disclosure (**ID**) regulation; and
 - X1.2 regulate the price and quality of fibre fixed line access services (**FFLAS**) – price-quality (**PQ**) regulation.
- X2 The Telecommunications (Regulated Service Providers) Regulations 2019 specifies which providers are regulated and what kind of regulation applies to them – ID-only regulation or both ID and PQ regulation.
 - X2.1 All local fibre companies (**LFCs**) are subject to ID regulation.
 - X2.2 In addition, Chorus Limited (**Chorus**) is subject to PQ regulation for all FFLAS, except to the extent that a service is provided in a geographical area where a regulated provider (other than Chorus) has installed a fibre network as part of the Ultra-Fast Broadband (**UFB**) initiative.

Deregulation reviews

- X3 Section 210 of the Act provides for the Commission to consider whether continued regulation of FFLAS still benefits end-users, or whether competition has increased to a point where regulation is no longer necessary.
- X4 In December 2024, we found there were reasonable grounds to consider the deregulation of four FFLAS:
 - X4.1 Voice;
 - X4.2 Point-to-point (in non-Chorus LFC areas);
 - X4.3 Transport; and
 - X4.4 Co-location and interconnection (in non-Chorus LFC areas).

- X5 On 31 March 2026, following completion of our investigation into Voice FFLAS, we published our final report recommending that this service be deregulated.¹

Our draft recommendation is that all three services remain regulated

- X6 This report sets out our draft recommendation on the remaining three services: Point-to-point, Transport, and Co-location and interconnection. Current evidence does not demonstrate sufficient competitive constraint to support deregulation.
- X7 Our draft recommendation is that Point-to-point FFLAS, Transport FFLAS, and Co-location and interconnection FFLAS each remain regulated. These draft recommendations are discussed further below.
- X8 Across all three services, while we have identified alternative providers and infrastructure in some areas, our draft view is that competition is not sufficient to constrain the market power of incumbent LFCs.
- X9 For services subject to ID regulation, the principal benefit of continued regulation is the preservation of regulatory transparency and monitoring. For Chorus' services subject to PQ regulation, continued regulation also retains the applicable revenue cap and quality standard constraints.
- X10 As such, our draft view is that continued regulation best promotes the benefit of end-users in markets for FFLAS by promoting outcomes that are consistent with outcomes produced in workably competitive markets under s 162. We also consider that, where relevant, continued regulation best gives effect to the promotion of workable competition in telecommunications markets for the long-term benefit of end-users of telecommunication services under s 166(2)(b).
- X11 In reaching this conclusion, we have placed significant weight on the presence of alternative infrastructure, as we consider it is a necessary enabler of competition in the relevant markets. Consistent with domestic and international developments, as a starting point we have treated markets (defined in service and geographic terms) with two sufficiently competitive providers in addition to the incumbent LFC as being strongly suggestive of workable competition (the "LFC+≥2 approach").
- X12 Additionally, we have considered available evidence of the effectiveness of competitive constraints including:
- X12.1 dependencies between services;

¹ Commerce Commission "[Voice services deregulation review](#)" (31 March 2026).

X12.2 market structure and trends;

X12.3 substitutability; and

X12.4 demand and switching.

We are recommending Point-to-point FFLAS remain regulated

- X13 Our draft recommendation is that Point-to-point FFLAS in non-Chorus LFC areas remain subject to the current ID-only regulation.
- X14 Having considered the information available to us, there is insufficient competitive constraint in the wholesale Point-to-point market in any relevant area, largely due to a lack of competing fibre infrastructure and the absence of viable alternatives. Given the niche and specialised nature of demand for Point-to-point services, we do not expect this position to change in the foreseeable future.
- X15 We consider continued ID regulation in its current form preserves transparency and monitoring of LFCs' performance, and Point-to-point revenue, pricing and contract information in particular. Under s 162, continued ID regulation would help stakeholders assess whether end-users of FFLAS share the benefits of efficiency gains such as through lower prices, and regulated providers are limited in their ability to earn excessive profits. Additionally, with respect to MAS Point-to-point FFLAS, continued regulation would best give effect to the promotion of workable competition in the telecommunications markets under s 166(2)(b).
- X16 Given the limited competitive alternatives identified, our draft view is that these transparency and monitoring benefits materially outweigh the relatively limited incremental compliance savings from deregulation.
- X17 This means that Enable, Northpower, Tuatahi, and Chorus (to the extent it provides services in other LFC areas) as providers of Point-to-point FFLAS would continue to be required to disclose information on Point-to-point FFLAS under ID regulation.

We are recommending Transport FFLAS remain regulated

- X18 Our draft recommendation is that Transport FFLAS should continue to be regulated under Part 6 of the Act.

- X19 Our draft view is that the evidence does not show sufficient competitive constraint to support deregulation. Some areas show overlapping fibre infrastructure or single provider alternatives, but no area has sufficient density or cohesiveness of alternative providers to act as a constraint on the market power of the incumbent LFC.
- X20 For Transport, nearby fibre is not enough to represent a competitive constraint. An alternative must be either:
- X20.1 practically capable of receiving traffic from the regulated provider's network, carrying it onward, and delivering it to a handover point the access seeker can use; or
 - X20.2 bypassing the regulated provider's network entirely.
- X21 Retaining regulation would best give or be likely to best give effect to the purpose in ss 162 and 166(2)(b). For Enable, Northpower and Tuatahi, which are subject to ID regulation only, the principal benefit is continued transparency, monitoring and regulatory scrutiny rather than direct control of individual Transport prices or access terms.
- X22 For Chorus Transport services subject to PQ regulation, continued regulation also means revenue from regulated Transport services is included in the revenue cap and applicable quality standards. Deregulation may provide some commercial flexibility and administrative efficiencies, but our draft view is that these benefits do not outweigh the benefits of retaining ID regulation and, for Chorus, the additional PQ regulation, given the limited competitive constraints identified.
- X23 This means that Enable, Northpower, Tuatahi, and Chorus as providers of Transport FFLAS would continue to be required to disclose information on Transport FFLAS under ID regulation. PQ regulation would continue to apply to Chorus where it currently applies.

We are recommending Co-location and interconnection FFLAS remain regulated

- X24 Our draft recommendation is that Co-location and interconnection FFLAS should continue to be regulated under Part 6 of the Act. Our draft view is that the evidence does not demonstrate sufficient level of competition to support deregulation. We have also considered whether the physical accommodation component could be deregulated separately, while network-specific interconnection remains regulated.

- X25 Physical accommodation and network-specific interconnection are distinct functions and may be supplied separately. Physical accommodation may sometimes be available from another party, such as a host provider, data centre or another facility owner. However, where an access seeker needs to connect to the relevant LFC network, interconnection with that LFC remains necessary.
- X26 We have not identified alternatives for network-specific interconnection. Physical accommodation may face alternatives in some locations. However, the current evidence does not establish either that alternatives are sufficiently available or that a clear, workable regulatory boundary would support partial deregulation across the scope of this review.
- X27 Co-location and interconnection services are also enabling inputs for other fibre services, including Transport and Bitstream access. Because network-specific interconnection is an unavoidable input where access to the relevant LFC network is required, continued transparency and monitoring may support competition in related Transport, Bitstream and downstream telecommunications markets.
- X28 This means that Enable, Northpower, Tuatahi, and Chorus (to the extent it provides services in other LFC areas) as providers of Co-location and interconnection FFLAS would continue to be required to disclose information on Co-location and interconnection FFLAS under ID regulation.

Submissions

- X29 We are seeking further information through submissions to support our final recommendation. Submissions on this draft report are due by 5pm 17 September 2026.
- X30 Once we receive submissions and cross submissions, we will finalise our report and make our final recommendation to the Minister for Media and Communications (**Minister**).

Chapter 1 Introduction and background

Background to deregulation reviews

- 1.1 Part 6 of the Telecommunications Act 2001 provides for the regulation of FFLAS in markets with little or no competition in New Zealand. The core regulatory requirements under Part 6 are PQ and ID regulation.
- 1.2 Section 210 of the Act provides that the Commission may, at any time after the implementation date, review how one or more FFLAS are regulated under Part 6 if the Commission has reasonable grounds to consider that those services should no longer be:²
 - 1.2.1 regulated under Part 6 of the Act; or
 - 1.2.2 subject to PQ regulation under Part 6 of the Act.
- 1.3 We are required to consider, before the start of each regulatory period, whether there are reasonable grounds to start a FFLAS deregulation review.³ We may undertake such a review where we conclude that there are reasonable grounds to do so.
- 1.4 We published a Fibre Deregulation Review Framework Paper in March 2026, which sets out the legal and economic framework for fibre deregulation reviews. We have applied that framework in this review and do not repeat it here.⁴

Purpose and structure of the report

- 1.5 This draft report sets out our recommendation to the Minister on whether Point-to-point, Transport, or Co-location and interconnection FFLAS should no longer be:
 - 1.5.1 regulated under Part 6 of the Act; or
 - 1.5.2 subject to PQ regulation under Part 6 of the Act.
- 1.6 The report is structured as follows:
 - 1.6.1 **Chapter 1** introduces the paper and outlines our process;
 - 1.6.2 **Chapter 2** outlines our analysis and draft recommendation on Point-to-point FFLAS;
 - 1.6.3 **Chapter 3** outlines our analysis and draft recommendation on Transport FFLAS;

² Telecommunications Act 2001, s 210(1).

³ Telecommunications Act 2001, s 210(3).

⁴ Commerce Commission “[Final framework for fibre deregulation reviews](#)” (31 March 2026).

- 1.6.4 **Chapter 4** outlines our analysis and draft recommendation on Co-location and interconnection FFLAS;
- 1.6.5 **Attachment A** outlines our requests for information (RFI);
- 1.6.6 **Attachment B** discusses our approach to assessing the level of infrastructure-based competition;
- 1.6.7 **Attachment C** outlines the approach we used to assess whether Point-to-point services face effective competition at the infrastructure level; and
- 1.6.8 **Attachment D** outlines the approach we used to assess whether Transport services face effective competition at the infrastructure level.

Our process to date and next steps

- 1.7 On 12 June 2025, we published our process update letter, announcing the commencement of the deregulation reviews.⁵
- 1.8 On 31 March 2026, we published our final recommendation on Voice services for all LFCs, and our fibre deregulation review framework paper.^{6, 7}
- 1.9 This draft report relates to our deregulation review of Transport, Point-to-point and Co-location and interconnection FFLAS. Table 1.1 sets out the process for this review.

⁵ Commerce Commission “[Fibre deregulation reviews – Process update](#)” (12 June 2025).

⁶ Commerce Commission “[Fibre fixed line access service deregulation review under s 210 of the Telecommunications Act – Final recommendation to the Minister for Media and Communications on Voice Fibre Fixed Line Access Services](#)” (31 March 2026).

⁷ Commerce Commission “[Final framework for fibre deregulation reviews](#)” (31 March 2026).

Table 1.1 FFLAS deregulation review process

Milestone	Date
Draft reasonable grounds assessment	27 August 2024
Final reasonable grounds assessment	19 December 2024
Fibre deregulation process update letter	12 June 2025
RFIs sent to fibre providers (see Attachment A)	August 2025
Responses to RFI due	October 2025
Voice – Final report	31 March 2026
Draft report published (this paper)	13 August 2026
Submissions on draft report due	5pm 17 September 2026
Cross submissions due	2 weeks following publication of submissions
Final report	Q4 2026

Information for interested parties on making a submission

Process and timeline for making submissions

- 1.10 We are seeking submissions on our draft report by 5pm 17 September 2026.
- 1.11 Address your responses to: Toni Shuker (Manager, Fibre and Regulatory Rules)
c/o telecommunications@comcom.govt.nz.

Confidentiality

- 1.12 We intend to publish the non-confidential/public version of all submissions we receive on our website.
- 1.13 The protection of confidential information is something we take seriously. If you need to include commercially sensitive or confidential information in your submission or cross-submission, you must provide us with both confidential and non-confidential/public versions of your submission that are clearly identified.
- 1.14 You are responsible for ensuring that commercially sensitive or confidential information is not included in a public version of the submission provided to us.

- 1.15 All submissions and cross submissions we receive, including any parts of them that we do not publish, can be requested under the Official Information Act 1982 (**OIA**). This means we would be required to release material that we do not publish unless good reason existed under the OIA to withhold it. We would normally consult with the party that provided the information before we disclose it to a requester.

Chapter 2 Recommendation for Point-to-point FFLAS

Draft recommendation

- 2.1 Our draft recommendation is that Point-to-point FFLAS in non-Chorus LFC areas remain subject to regulation under Part 6 of the Act.
- 2.2 This means that Enable, Northpower, Tuatahi and Chorus (with respect to services provided in other LFC areas) would continue to be required to disclose information on Point-to-point FFLAS under ID regulation.

Scope

Product dimension

- 2.3 We are reviewing Point-to-point Layer 1 services provided by regulated or non-regulated providers where a connection is established between end-user premises and a network node.

Treatment of non-building access points

- 2.4 For clarity, connections to non-building access points (**NBAPs**), such as those located within road corridors, are included as within scope. While our geographic interpretation of fibre access footprints is based on residential, commercial and industrial land parcels, we consider adjacent infrastructure (including roads, footpaths and intersections) to be implicitly included where the connection otherwise meets the criteria in paragraph 2.3 above.

Treatment of mobile access services

- 2.5 For clarity, while our reasonable grounds assessment included MAS as a Transport service, we now consider that it is appropriate to include MAS as a Point-to-point service because these services operate on access networks, rather than Transport networks.

Exclusions

- 2.6 The scope excludes services that involve a direct fibre connection between two end-user premises without traversing the access network, because these are not FFLAS services.
- 2.7 The scope also excludes the provision of capacity over Transport or backhaul networks (where services are supplied between network nodes rather than within the access network) because these are assessed as Transport services.

Geographic dimension

- 2.8 This review examines competition in Point-to-point fibre services within geographic areas served by a non-Chorus LFC's (Enable, Northpower or Tuatahi) fibre access footprint as defined in the reasonable grounds assessment.⁸
- 2.9 We interpret this as geographic areas where a non-Chorus LFC operates a fibre access network. This ensures we can assess geographic areas where more than one LFC is present, one of which must be a non-Chorus LFC, and the other could be Chorus or another non-Chorus LFC.
- 2.10 Where more than one LFC operates within a geographic area, our draft view is that, where deregulation is recommended, it should apply uniformly to all LFCs in that area. In practice this would only affect Chorus (where it operates in another LFC's area) as we have not identified any instances of LFC-LFC competition that do not include Chorus.

Analysis

- 2.11 This section applies our deregulation framework to Point-to-point FFLAS to explain how we have reached our draft recommendation. It covers:
- 2.11.1 a description of the service;
 - 2.11.2 a definition of the market and identification of alternatives;
 - 2.11.3 an assessment of the effectiveness of competitive constraints; and
 - 2.11.4 an assessment against the purpose of Part 6.

Description of Point-to-point FFLAS

- 2.12 The description for Point-to-point FFLAS is set out in Table 2.1.

⁸ Commerce Commission "[Fibre fixed line access service deregulation review under s 210 of the Telecommunications Act – Reasonable grounds assessment final decision](#)" (19 December 2024), paragraph 1.2.

Table 2.1 Service description

<i>Category</i>	<i>Technical</i>	<i>Retail side/End-user</i>
Point-to-point FFLAS	Single, multi-class or Layer 1 Point-to-point fibre access services (including, but not limited to, Bitstream 4, enhanced Bitstream 4, High Speed Network Services (HSNS), Bandwidth Fibre and Direct Fibre (DFAS))	Enterprise Point-to-point services Bitstream 4 provides Retail Service Provider (RSP) business customers with similar benefits to Bitstream 3, but over a dedicated fibre, which offers the speed and security required by large organisations. DFAS provides dark fibre access that gives RSPs the ability to develop complex services and products to high-value customers requiring tailored equipment configurations. MAS Point-to-point services Mobile Access Services (MAS) provide RSPs with a high speed, high traffic class Point-to-point Bitstream service suitable for connectivity to mobile cell sites and other similar NBAPs.

- 2.13 For this review, we maintain and use these service descriptions from our reasonable grounds assessment.⁹

The market and identification of alternatives

- 2.14 We first consider the wholesale market, and any competitive constraints that any alternatives may provide. We then look at any indirect competitive constraints that may exist, including alternatives in a downstream retail market.
- 2.15 We consider the current market in which Point-to-point services compete to comprise wholesale Point-to-point services that can be used to offer retail Point-to-point services.

⁹ Commerce Commission “[Fibre fixed line access service deregulation review under s 210 of the Telecommunications Act – Reasonable grounds assessment final decision](#)” (19 December 2024), Table 3.2.

- 2.16 Demand for wholesale Point-to-point services is derived from the demand for retail Point-to-point services. We consider this retail market comprises services which can provide end-users with dedicated, tailored connectivity capable of supporting large and/or complex business end-users.¹⁰
- 2.17 Alternative Point-to-point services are offered commercially by non-regulated fibre access network operators. Our view is that third-party (ie, not regulated) fibre networks offering retail Point-to-point services, where they exist, are in the retail Point-to-point FFLAS market.
- 2.18 In the reasonable grounds assessment, we defined four geographic markets corresponding to the footprints of the four regulated fibre networks. We noted that as part of our deregulation investigation into Point-to-point services, we would examine whether more granular geographic markets exist. We consider that more granular geographic markets do exist at the POI Area level.
- 2.19 There are two key groups of customer demand for Point-to-point services:
- 2.19.1 Government and Enterprise end-users looking for secure, high performing Point-to-point services. This will include node-to-premises connections and NBAP connectivity.
 - 2.19.2 Mobile Network Operators (**MNOs**) connecting cells sites using a Point-to-point service called MAS.

There are no close substitutes

- 2.20 We considered whether Digital Microwave Radio (**DMR**) services should be treated as a substitute for fibre-based Point-to-point services. While some DMR variants may, in certain circumstances, provide connectivity similar to Point-to-point services. DMR is subject to coverage, capacity and deployment constraints that limit its suitability as an alternative for many customers.
- 2.21 We considered that these constraints are likely to limit the number of customers for whom DMR is a credible alternative and that DMR providers would be unlikely to expand supply sufficiently to constrain fibre prices or quality. We also received no submissions or RFI evidence indicating that DMR provides a meaningful competitive constraint.
- 2.22 Accordingly, our preliminary view is that DMR is unlikely to be a close substitute for fibre-based Point-to-point services.

¹⁰ We note that with the deployment of high-capacity XGSPON-based services (hyperfibre), point-to-multipoint services may meet the needs of certain enterprise end-users. However, as these are provided by LFCs using the same physical fibre networks, we do not consider these a relevant competitive constraint.

Effectiveness of competitive constraints

Assessing the state of competition in the market

- 2.23 As demand for Point-to-point services is derived from the downstream retail Point-to-point market, we assess competition for retail Point-to-point services and the competitive constraint applied to retail Point-to-point services which use the regulated wholesale service as an input.¹¹
- 2.24 We consider that assessing competition in the retail Point-to-point market requires analysis of:
- 2.24.1 the scope of relevant services and the availability of viable technological substitutes;
 - 2.24.2 the geographic extent of network coverage and the presence of physical competition;
 - 2.24.3 service consumption and access arrangements (including price and non-price terms);
 - 2.24.4 the comparability of service quality in meeting end-user requirements; and
 - 2.24.5 price elasticity, switching behaviour, and the persistence of market power (including over time).
- 2.25 We conducted the analysis as a sequential assessment of the considerations set out above, progressing step by step. Where insufficient competitive constraint was identified to support deregulation, the assessment concluded at that point to maintain a targeted and proportionate approach.
- 2.26 We assess competition for Point-to-point services at the POI Area level to provide an appropriate, network-aligned basis for assessing where effective infrastructure-based competitive constraint exists.¹² Competition is not uniform across wider geographic areas; rather, it is determined by the extent to which providers have overlapping physical network presence and are able to serve the same customers. Broader geographies risk masking this variation, while more disaggregated geographic areas can place undue weight on isolated pockets of overlap and may prove impractical as the basis for selective deregulation.

¹¹ No retail alternatives rely on Point-to-point services, however fixed wireless access services often rely on regulated mobile access services for delivery.

¹² UFB geographic areas listed in “[Notice of points of interconnection under section 231 of the Telecommunications Act 2001](#)” (27 March 2024).

Relevant services are Point-to-point services delivered within a fibre access service

- 2.27 Regulated and non-regulated providers can augment their point-to-multi-point access networks to deliver Point-to-point services. This is achieved by using existing infrastructure (eg, ducts) supporting Bitstream passive optical network (PON) services.¹³ This approach means Point-to-point services can be widely deployed at relatively low cost where existing infrastructure is already present.
- 2.28 As discussed in the scope section, the relevant services include Point-to-point Layer 1 services between end-user premises and network nodes, excluding end-to-end connections that bypass access node architecture and services over Transport or backhaul networks.
- 2.29 Competing Point-to-point services can be provided without any regulated inputs if they bypass the LFCs' networks entirely. Alternatives may depend on Co-location, interconnection or Transport where they are served from an LFC's POI.
- 2.30 We received information from 12 providers: 2degrees, Chorus, EA Networks, Enable, Network Tasman, Northpower, One NZ, Powerco, Spark, Tuatahi, Vector and Vital.
- 2.31 Our initial data triage and analysis of these 12 providers' data sets and subsequent follow up clarifications with some providers, resulted in the following groupings:¹⁴
- 2.31.1 Three incumbent regulated providers – Enable, Northpower, Tuatahi – and three competitors.
 - 2.31.2 The fibre footprints of two providers are excluded from this review, as they fall outside its scope of connectivity (eg, premises-to-premises services or point-to-point transport network connections).
 - 2.31.3 The fibre footprints of four providers are excluded from this review, as they have either no access network footprint within the in scope geographies or have only limited, customer-specific deployments.

¹³ Bitstream PON services are managed fibre access services delivered over a Passive Optical Network, providing standardised Ethernet connectivity between end users and retail service providers over a shared fibre network.

¹⁴ We noted in our [reasonable grounds assessment](#) in paragraph 3.172 that Chorus provided us with a list of 13 point-to-point service providers. We sent out RFIs to 16 providers. Twelve providers responded and our assessment ruled out six providers leaving six providers in scope for review.

We did not identify sufficient competitive constraint under the LFC ≥ 2 approach with at least 70% coverage

- 2.32 We applied the approach in Attachment B and determined the presence of competitors to the regulated incumbent. We then applied the approach in Attachment C to assess whether there is sufficient physical competition in the in scope geographic areas.
- 2.33 In applying the approach, we have considered whether, absent regulation, there would be at least two sufficiently scaled competitors in addition to the regulated incumbent such that outcomes would be consistent with those produced in workably competitive markets as expected under s 162.

Identification of suburbs of interest

- 2.34 Given the retail market for Point-to-point services (other than MAS) is largely commercial or other enterprise end-users, we focused our investigation on areas where at least 10% of premises are zoned for commercial or industrial use. This allowed us to avoid giving undue weight to residential areas where demand for Point-to-point services is limited. This approach identified 105 suburbs of interest.
- 2.35 We chose 10% because when undertaking sensitivity testing for the percentage of commercial or industrial addresses we found that none of the suburbs that had less than 10% commercial or industrial addresses had sufficient competitive constraint (via the LFC ≥ 2 approach) and so could be excluded from assessment, except for our assessment of MAS.

Identification of suburbs with alternatives

- 2.36 We assessed the percentage of addresses in non-Chorus LFC fibre areas where there were two (or more) competitors to the regulated incumbent provider.
- 2.37 At a POI Area level, we found none of the 26 POI Areas had at least 70% of addresses (within suburbs of interest) able to be served by the incumbent LFC and at least two other networks.¹⁵
- 2.38 At a more granular level, we found five suburbs out of the 105 suburbs of interest that appeared to have sufficient physical competition from two or more competitors to the regulated incumbent:
- 2.38.1 Christchurch Central and Riccarton Central in the Christchurch, Rangiora and Rolleston (**Christchurch**) POI Area (Enable);
 - 2.38.2 Hamilton Central in the Hamilton, Tokoroa, Cambridge and Te Awamutu (**Hamilton**) POI Area (Tuatahi);

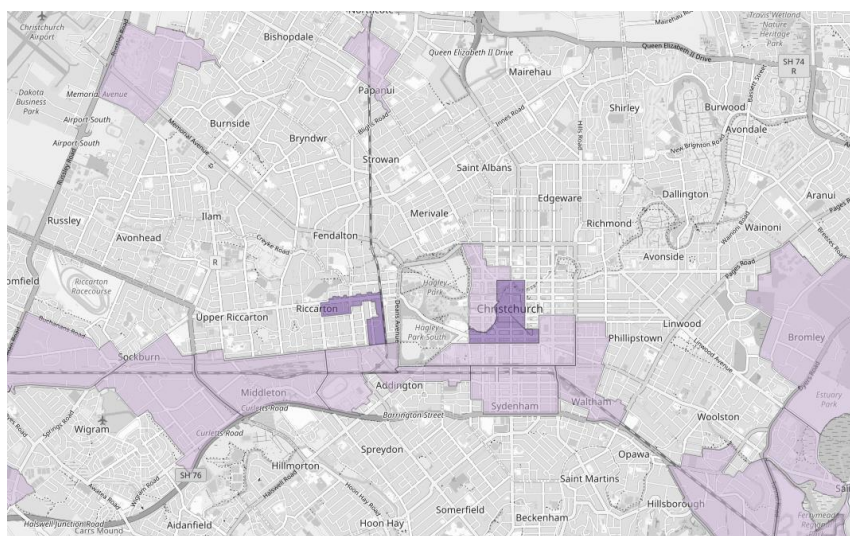
¹⁵ Attachment B demonstrates the sensitivity testing we undertook at 70%, 75%, and 80% and explains our reasoning for choosing 70%. 70% is a coverage test to help us assess whether the LFC ≥ 2 condition is sufficiently widespread across addresses in the relevant geographic areas.

2.38.3 Hospital Hill in the Napier/Hastings POI Area (Tuatahi); and

2.38.4 Rotorua Central in the Rotorua POI Area (Tuatahi).¹⁶

- 2.39 Our view is that these are isolated geographic pockets of competition, and not sufficient to deregulate at a POI Area level. This is because most of the suburbs of interest in each POI Area have insufficient competitive constraint at the infrastructure level using our assessment approach (see Figure 2.5). In other words, we do not consider there would be at least two sufficiently scaled competitors in addition to the regulated incumbent at the POI Area level.
- 2.40 Additionally, we consider there would be significant practical difficulties in applying selective deregulation at such a low level and without the clear network boundary delineation that the Specified Points of Interconnection (**SPOI**) construct provides.
- 2.41 The following figures show the suburbs of interest (those with 10%+ commercial or industrial addresses) with insufficient competitive constraint in the lighter mauve colour and the subset of those areas with sufficient competitive constraint in the darker purple colour.

Figure 2.1 Christchurch POI Area: suburbs of interest



¹⁶ While UFB networks in the Rotorua and Napier/Hastings were deployed by Chorus, Tuatahi has a significant presence in these areas following the purchase of Unison Fibre Limited's network on 31 January 2024.

Figure 2.2 Hamilton POI Area: suburbs of interest

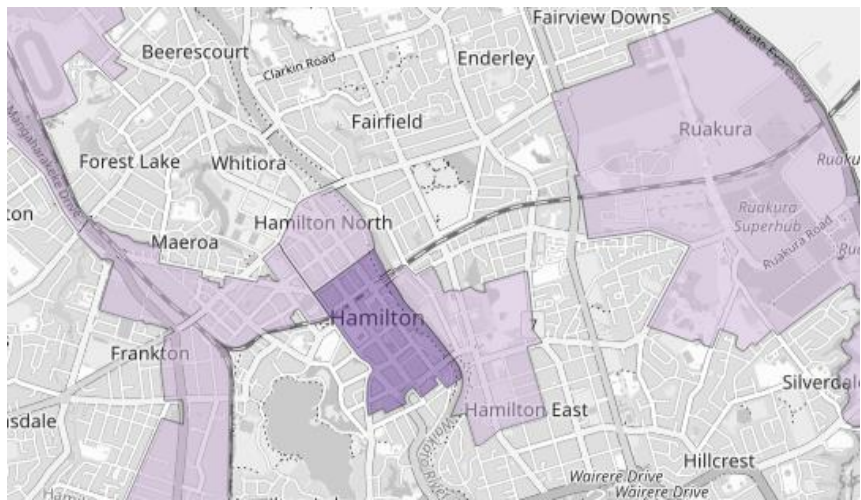


Figure 2.3 Napier/Hastings POI Area: suburbs of interest

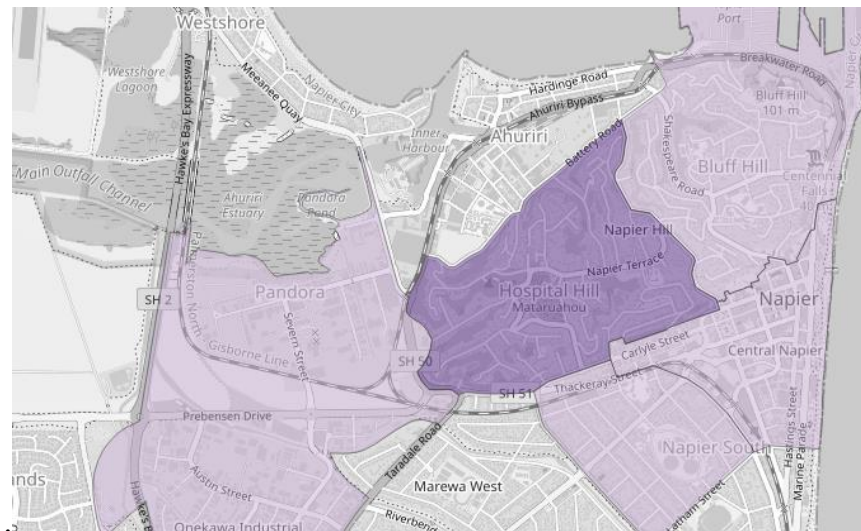


Figure 2.4 Rotorua POI Area: suburbs of interest

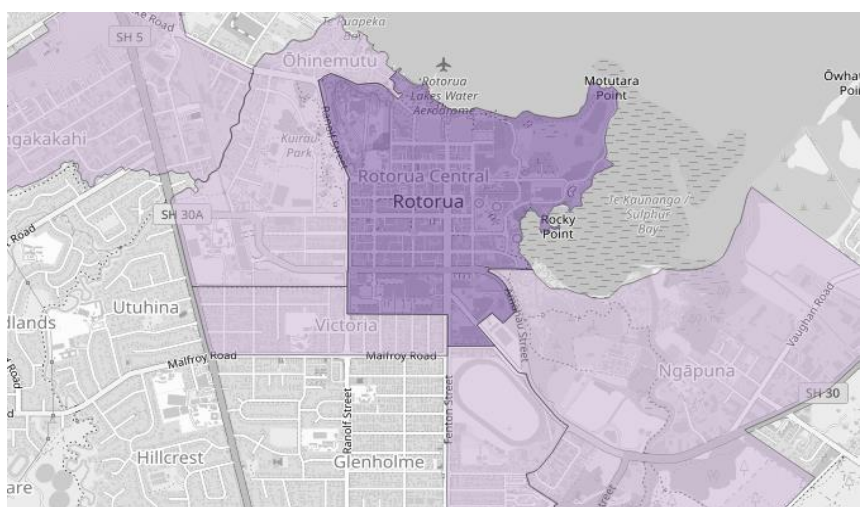
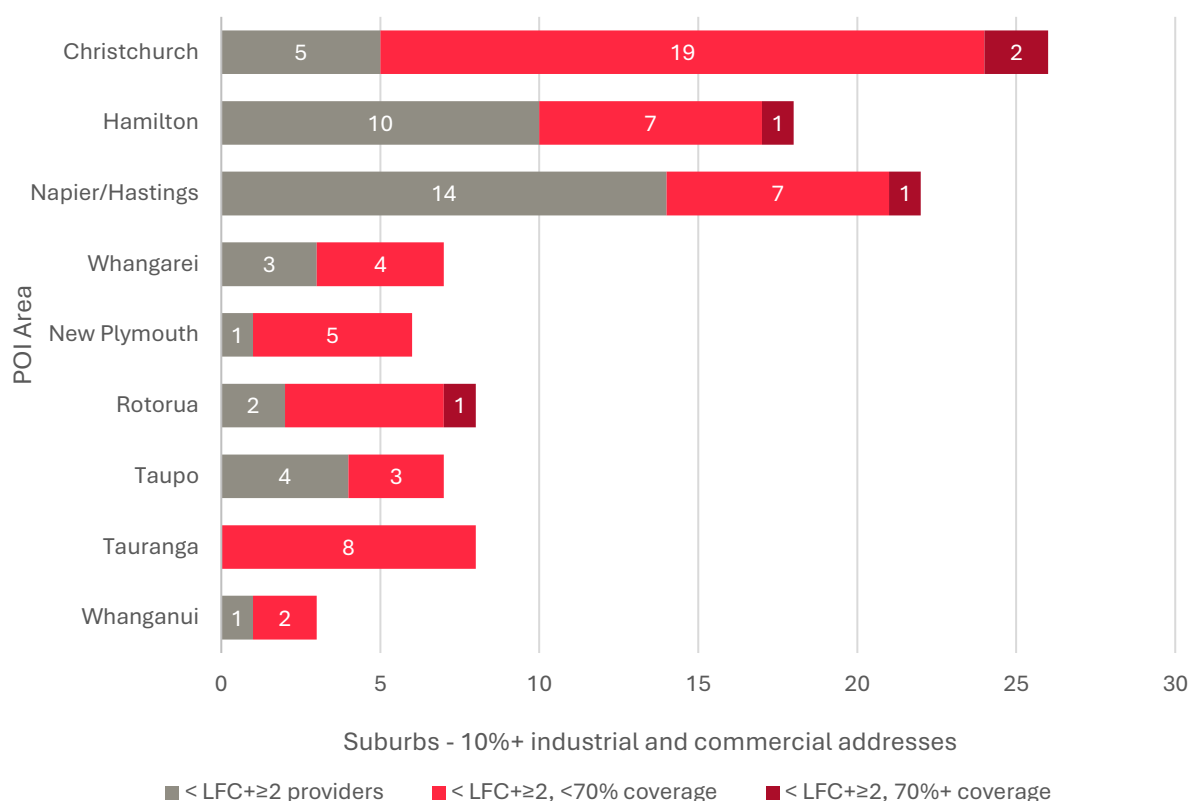


Figure 2.5 Nine POI Areas by suburb, meeting or not meeting the LFC ≥ 2 approach with at least 70% coverage¹⁷



2.42 We did not progress to the second step of assessment because we did not find any borderline results within any POI Areas. The two steps of assessment are described in Attachment C, paragraph C32.

We identified limited areas of sufficient competitive constraint under the LFC ≥ 1 approach with at least 70% coverage

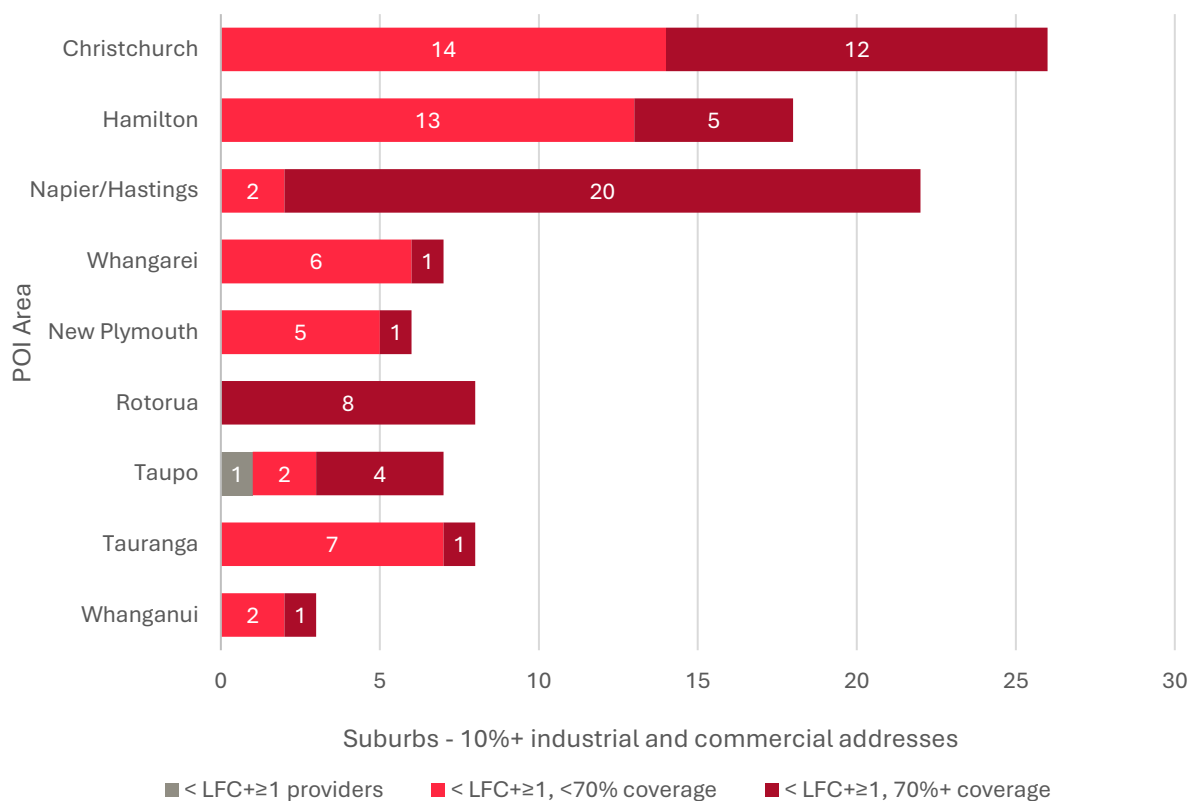
2.43 We assess competitive constraint at an infrastructure level based on both the number of competitors present and the extent of their coverage. We consider the LFC ≥ 2 approach to be the most appropriate benchmark, where there are two or more competitors with network coverage extending to 70% or more of addresses within the relevant geographic area. However, we also include results under the lower benchmark, LFC ≥ 1 (as described in Attachment B), which requires the presence of one or more competitors with coverage of 70% or more of addresses.

2.44 This approach provides transparency on the sensitivity of our findings and helps stakeholders understand the extent to which outcomes depend on the analytical reference point chosen, supporting evidence-based submissions.

¹⁷ We refer to the “New Plymouth and Hāwera” area as “New Plymouth” throughout this report.

- 2.45 Nine of 26 POI Areas nationally were in scope. We found two POI Areas with one or more competitors to the regulated incumbent, in 70% or more of addresses. These POI Areas are Napier/Hastings and Rotorua.
- 2.46 We found two POI Areas, Hamilton and Christchurch, where competition was present in some districts but not consistently across the entire POI Area. As a result, we found that neither POI Area had sufficient competitive constraint at the infrastructure level.
- 2.46.1 In the Hamilton POI Area, Hamilton City and Matamata-Piako districts have one or more competitors to the regulated incumbent, in 70% or more of addresses in some suburbs, but the Waikato, South Waikato and Waipa districts do not.
- 2.46.2 In the Christchurch POI Area, Christchurch City and Waimakariri districts have one or more competitors to the regulated incumbent, in 70% or more of addresses in some suburbs, but Selwyn district does not.
- 2.47 None of the other POI Areas in scope have one or more competitors to the regulated incumbent, in 70% or more of addresses (see Figure 2.6).

Figure 2.6 Nine POI Areas by suburb, meeting or not meeting the LFC ≥ 1 approach with at least 70% coverage



- 2.48 The identification of two POI Areas with one or more competitors to the regulated incumbent available at 70% or more of addresses does not, on its own, support a recommendation for deregulation in these two POI Areas.
- 2.49 The finding indicates it would be appropriate for us to move to the next parts of the competition assessment, based on this lower reference point.

We did not identify sufficient competitive constraint using an expanded geographic approach specifically for MAS Point-to-point services

- 2.50 We took an expanded approach to the geographic scope for assessing competition specifically for MAS Point-to-point connectivity because demand for MAS could exist anywhere in the regulated footprint, not just in areas with at least 10% commercial or industrial addresses.
- 2.50.1 We tested this by widening the assessment to the 526 suburbs that have less than 10% commercial or industrial addresses and are predominantly residential suburbs.
- 2.50.2 We found that none of the 526 suburbs had two or more competitors, in addition to the regulated incumbent, in 70% or more of addresses.¹⁸
- 2.50.3 Only one suburb, Rangiora in the Western Bay of Plenty district, came close to the analytical reference point, with 63% of addresses meeting the LFC ≥ 2 benchmark. However, as competition in one suburb would not be enough to recommend deregulation at the POI Area, we did not proceed with the second step in the two-step assessment approach.

We confined further assessment to pricing, churn, and expansion plans

- 2.51 Our preferred approach for assessing competitive constraint is the presence of two or more sufficiently scaled competitors to the regulated incumbent. Applying this approach, our analysis found insufficient infrastructure-based competition at both the overall fibre access network-level and when disaggregated to POI Areas and districts. We proceeded to further assessment of pricing and churn, and expansion plans.

¹⁸ Note that four “suburbs” (SA2 areas) did meet the benchmark but were excluded from the assessment due to insignificant size - each of these four “suburbs” had less than five “addresses” (land parcels) each.

Providers respond to competition but we consider there is limited evidence of sustained price constraint

- 2.52 Pricing approaches differ substantially across providers. While regulated providers predominantly rely on published and geographically consistent wholesale pricing, some have introduced alternative products, POA arrangements and specialised service offerings that provide limited flexibility to respond to customer needs and competitive conditions. As an example, Chorus offers Voluntary DFAS (**vDFAS**) at a material discount to standard DFAS in areas where another LFC has installed a fibre network.¹⁹
- 2.53 While the evidence suggests that providers have mechanisms to respond to competitive conditions, we have limited evidence that the presence of multiple providers consistently constrains prices. Competitive responses provided in the RFIs appear to be targeted and to occur through product differentiation, bespoke commercial arrangements, or non-price measures rather than through widespread reductions in published prices.

We did not find reliable evidence of switching between providers

- 2.54 The information we received on switching and churn is limited and does not allow us to draw firm conclusions about the extent to which customers move between competing point-to-point providers.
- 2.55 Most of the information we received relates to disconnections, which cannot distinguish between a customer:
- 2.55.1 moving to an alternative Point-to-point provider;
 - 2.55.2 shifting to a different form of connectivity better suited to their needs (for example, XGSPON point-to-multipoint (eg, a Hyperfibre service) where speed is the key requirement); or
 - 2.55.3 disconnecting altogether (eg, where the business has closed).
- 2.56 The information available indicates LFCs' annual disconnection rates are low but not insignificant.²⁰ Some other providers described their churn as "immaterial", but these providers tended to offer bespoke connections, so their comments may reflect out-of-scope bespoke connectivity rather than access network Point-to-point services.
- 2.57 The disconnection data we hold cannot be treated as evidence of switching between competing providers, and we therefore place limited weight on it in assessing the effectiveness of competitive constraints.

¹⁹ Chorus "[Chorus UFB Services Agreement, Fibre Access Services \(layer 1\): Service Description for Direct Fibre Access Services in Other Provider Zones – Reference Offer](#)" (May 2022), paragraph 1.3. We note however that vDFAS is only made available where Chorus is a competing provider, rather than the main incumbent LFC.

²⁰ Detailed churn metrics have been omitted due to commercial confidentiality.

We consider that there is unlikely to be a material change in network expansion

2.58 We asked network providers to tell us about their future plans for network expansion:

2.58.1 Of the 12 providers that responded to our RFI, two providers (17%) said they have plans for network expansion, six (50%) said they have no plans to extend their networks, and four (33%) did not provide any information relating to expansion plans.

2.58.2 No providers said they had any plans to build (or overbuild) fibre access network in existing suburbs (regardless of whether those suburbs are mostly residential or commercial/industrial addresses).

2.59 We also see several competitive trends and developments in the point-to-point market irrespective of whether regulation is retained or removed. These trends are:

2.59.1 We expect that end-user demand for Point-to-point FFLAS will remain concentrated to a relatively stable set of large government and enterprise organisations. Growth in connections most likely reflects incremental changes in these end-users' needs and gradual growth in the number of end-users in line with economic growth. There may be some new demand for MAS Point-to-point services in new subdivisions or where cellular infill may be required by MNOs.

2.59.2 Point-to-point services are typically required only where performance, security or control needs cannot be met by shared fibre. However, the availability of high-capacity point-to-multipoint fibre technologies such as Hyperfibre, and the development of future higher-speed services, may enable some business requirements to be met without dedicated fibre. These services may reduce the need for Point-to-point services in the future and may constrain its demand where performance is the key factor rather than security or control needs.

2.59.3 We expect that the highest demand is, and will remain, in Auckland (enterprise, data centres, MAS infill) and Wellington (government, MAS infill), neither of which is in scope for this review. We expect that future demand for FFLAS Point-to-point services in non-Chorus LFC areas will mostly be limited due to the likely lower number of organisations with demand for Point-to-point services in those areas, with the exception of Christchurch due to its size.

2.60 Therefore, we expect it to remain the case that most providers are unlikely to invest in expanding their networks due to subdued demand for a specialised service. This means we do not expect to see a material shift in the current levels of competitive constraint.

Alignment with the purpose in sections 162 and 166(2)(b)

- 2.61 We have considered whether Point-to-point FFLAS should no longer be regulated, having regard to whether our recommendation best gives, or is likely to best give, effect to the purpose in s 162 and, in relation to MAS only, the promotion of workable competition in telecommunications markets for the long-term benefit of end-users of telecommunication services under s 166(2)(b).

Relevance of promotion of workable competition under s 166(2)(b)

- 2.62 We consider that the promotion of workable competition for the long-term benefit of end-users of telecommunications services under s 166(2)(b) is relevant to MAS Point-to-point services, but otherwise not relevant to the rest of Point-to-point services.
- 2.63 Section 166(2)(b) is relevant to MAS Point-to-point services because MAS Point-to-point are used in the provision of retail voice and broadband services and therefore impact these wider telecommunications markets.
- 2.64 We do not consider that s 166(2)(b) is relevant for the rest of Point-to-point services (other than MAS). Unlike MAS and the other FFLAS products considered in this paper, enterprise Point-to-point is not used as an input service in the provision of other telecommunications infrastructure services (both other FFLAS and FWA), so the presence or absence of regulation is unlikely to materially impact competition.
- 2.65 These views on the relevance of s 166(2)(b) for different Point-to-point services are consistent with our reasonable grounds assessment.²¹ We note the reclassification of MAS services from Transport to Point-to-point services in this paper does not change the nature of the MAS services and therefore does not change our previous views on the relevance of s 166(2)(b).

Assessment of the regulatory state that best gives effect to the purpose in section 162 (purpose of Part 6)

- 2.66 The purpose of Part 6 under s 162 is to promote the long-term benefit of end-users in FFLAS markets by promoting outcomes that are consistent with outcomes produced in workably competitive markets.
- 2.67 In this section, we:
- 2.67.1 outline existing regulation for Enable, Northpower, Tuatahi and Chorus;
 - 2.67.2 compare the future state with existing regulation (factual) to the future state without regulation (counterfactual); and

²¹ Commerce Commission “[Fibre fixed line access service deregulation review under s 210 of the Telecommunications Act – Reasonable grounds assessment final decision](#)” (19 December 2024), paragraphs 3.258 and 3.197 respectively.

- 2.67.3 consider which would best give effect to purpose of Part 6 and the outcomes in s 162.

Existing regulation

- 2.68 At the current time Enable, Northpower and Tuatahi are subject to ID regulation, including for Point-to-point FFLAS in their specified fibre areas (**SFAs**).
- 2.69 While Chorus' SFAs are outside the scope of this review, Chorus is also subject to ID regulation, including for Point-to-point services supplied outside its SFAs. Services that Chorus provides outside its SFAs are not subject to PQ regulation which places constraints on Chorus' pricing and revenue.
- 2.70 As part of ID, we require LFCs to disclose service-level information, either publicly or to the Commission only in the case of commercially sensitive information. We collect information on revenues and contractual terms and conditions on Point-to-point services at an aggregated level. This information includes revenue and connections, prices, incentives and availability.
- 2.71 Point-to-Point services are also included in financial, asset management and quality information disclosed at the regulated business level, providing visibility to the Commission and the public of the regulated business' overall performance.
- 2.72 Primarily, the purpose of ID regulation is to ensure that sufficient information is readily available to interested persons to assess whether the purpose of Part 6 (in s 162) is being met.²² Transparency created through ID supports regulatory oversight and helps promote s 162 outcomes that are in the long-term interests of end-users.
- 2.73 The Commission also publishes summary and analysis of publicly disclosed information to promote greater understanding of the performance of regulated fibre service providers, their relative performance and changes in their performance over time.²³ Such summary and analysis may include an analysis of how effective the ID requirements are in promoting the purpose in s 162.²⁴
- 2.74 For Point-to-point services, we consider the s 162 outcomes of particular relevance are:
- 2.74.1 regulated providers allowing end-users to share the benefits of efficiency gains, including through lower prices, as set out in s 162(c); and

²² Section 186 of the Act. For a discussion on the interaction between ID and the Part 6 purpose, see: Commerce Commission "[Fibre information disclosure – Final determination reasons paper](#)" (30 November 2021), Chapter 2, Legal Framework.

²³ Section 187(2) of the Act

²⁴ Section 187(3) of the Act

- 2.74.2 regulated providers being limited in their ability to extract excessive profits, as set out in s 162(d).
- 2.75 Additionally, where we consider the promotion of workable competition under s 166(2)(b) is relevant (for MAS), we consider that ID best gives effect to this objective. As we noted when discussing existing ID regulation, ID can disincentivise regulated providers from behaving in ways that harm competition in telecommunications markets and can enable access seekers (or competing infrastructure providers) to bargain more effectively.²⁵ These effects are especially relevant to pricing and contract disclosures.

Factual assessment: the future state with existing regulation

- 2.76 Under the factual, Point-to-point services would continue to be subject to ID regulation under Part 6.
- 2.77 Continued ID regulation would maintain transparency regarding the pricing, revenues and performance of Point-to-point services and support regulatory oversight where competitive alternatives are uncertain, geo-specific, or not sufficiently broad. It may also reduce the risk that regulated providers could exercise market power in areas where access seekers have limited practical ability to switch to alternative Point-to-point providers.
- 2.78 The evidence demonstrates that the current Point-to-point market has insufficient competitive constraint. The infrastructure assessment is the principal indicator – the LFC +≥2 findings do not provide sufficient coverage across any assessed geographic area to demonstrate that competitive constraints are sufficient to promote outcomes consistent with the purpose of Part 6. The available evidence on pricing, commercial conduct, switching and expansion does not alter that conclusion.
- 2.79 With little anticipated network expansion and stable levels of demand, we would expect the future state with existing regulation to remain similar to the market conditions today. This is based on information we received from network providers and competitive trends and developments, as explained from paragraph 2.58.
- 2.80 Where there is insufficient competitive constraint, we consider that continued ID regulation better promotes the long-term benefit to end-users of FFLAS by supporting transparency and regulatory oversight. These mechanisms help assess whether providers are acting consistently with outcomes produced in workably competitive markets.

²⁵ Commerce Commission “[Fibre information disclosure – Final determination reasons paper](#)” (30 November 2021), paras 2.36-2.37.

Counterfactual assessment (the future state without regulation)

- 2.81 Under the counterfactual, Point-to-point services would no longer be regulated under Part 6, ie, ID regulation would be removed for these services in non-LFC SFAs.
- 2.82 Deregulation of ID regulation may provide some benefits, including reduced compliance obligations, alongside potential for greater commercial flexibility. These efficiencies could benefit end-users if they are reflected in lower prices or improved services. However, we consider these benefits are likely to be limited on the current evidence.
- 2.83 For Enable, Northpower and Tuatahi, and for Chorus outside of its SFAs, we consider deregulation would not materially increase pricing flexibility because these providers already have discretion over Point-to-point pricing.
- 2.84 The largest end-users of Point-to-point services, such as data centre operators and the MNOs (for MAS), may have some countervailing ability to contract for installation of new infrastructure. However, this is unlikely to apply to smaller end-users.
- 2.85 Deregulation may result in some reduction in compliance costs and administrative burden by removing ID obligations relating to Point-to-point services. However, the extent of any reduction may be limited, or may be outweighed by implementation costs.
- 2.86 Point-to-point services may share infrastructure, systems, common costs and operational processes with other regulated FFLAS. As a result, providers may need to develop and maintain systems to distinguish costs, revenues and assets attributable to Point-to-point services where other FFLAS remain regulated.
- 2.87 Potential adverse outcomes from deregulation include:
 - 2.87.1 reduced transparency regarding the availability, pricing and performance of Point-to-point services, making it more difficult to assess whether outcomes remain consistent with the purpose of Part 6;
 - 2.87.2 reduced ability for the Commission and other stakeholders (competing infrastructure providers and access seekers) to monitor and scrutinise the regulated providers' performance and to assess whether they are acting in a way that benefits end-users in the long-term.
- 2.88 As noted above, in addition to promoting the s 162 purpose, this kind of disclosure and transparency itself (resulting from ID regulation) can have pro-competitive effects, consistent with promoting s 166(2)(b).

- 2.89 Overall, we consider that the likely benefits of deregulation are limited and do not outweigh the potential risks of removing regulation. On the current evidence, deregulation would risk reducing transparency and regulatory protections for an important wholesale input without clear evidence it would benefit end-users in the long-term.

Overall assessment of the regulatory state that best gives effect to sections 162 and 166(2)(b)

- 2.90 Considered as a whole, the evidence demonstrates there is insufficient competitive constraint in the wholesale Point-to-point market in any relevant area, largely due to a lack of competing fibre infrastructure and the absence of viable alternatives. Given the niche and specialised nature of demand for Point-to-point services, we do not expect this position to change in the foreseeable future.
- 2.91 In these circumstances, removing ID regulation would reduce transparency and the information available to assess whether outcomes remain consistent with the purpose of Part 6, while providing only limited benefits through reduced compliance costs and greater commercial flexibility.
- 2.92 Our draft view is therefore that continued ID regulation is likely to best promote the purpose of Part 6. For Point-to-point services, we consider the s 162 outcomes of particular relevance are:
- 2.92.1 regulated providers allowing end-users to share the benefits of efficiency gains, including through lower prices, as set out in s 162(c); and
 - 2.92.2 regulated providers being limited in their ability to extract excessive profits, as set out in s 162(d).
- 2.93 Additionally, for MAS Point-to-point services, we consider that continuing ID regulation best gives effect to the objective in s 166(2)(b) of promoting workable competition for the long-term benefit of end-users of telecommunications services. ID can disincentivise regulated providers from behaving in ways that harm competition in telecommunications markets and can enable access seekers (or competing infrastructure providers) to bargain more effectively. These effects are especially relevant to pricing and contract disclosures that LFCs are currently required to disclose.

Draft recommendation

- 2.94 For the reasons outlined in this draft report, our view is that Point-to-point FFLAS should continue to be regulated under Part 6 of the Act to best give effect to the purpose in s 162 and, for MAS Point-to-point FFLAS, s 166(2)(b).
- 2.95 Accordingly, our draft recommendation is not to deregulate Point-to-point FFLAS at this time.

Chapter 3 Recommendation for Transport FFLAS

Draft recommendation

- 3.1 Our draft recommendation is that Transport FFLAS remain subject to regulation under Part 6 of the Act. This would mean that:
 - 3.1.1 Transport services provided by all LFCs remain subject to ID regulation; and
 - 3.1.2 Chorus' Transport services (outside other LFC areas) would also remain subject to PQ regulation.
- 3.2 Our draft view is that the evidence currently available does not demonstrate sufficient competitive constraint to, without regulation, produce outcomes that would be consistent with outcomes expected to be produced in workably competitive markets under s 162. While some areas show overlapping fibre infrastructure, usable alternatives²⁶ on particular links, and pockets in which two or more alternative providers are capable of supplying usable alternatives, the evidence does not demonstrate sufficient competition to support deregulation of Transport services in any assessed provider-area combination.²⁷
- 3.3 As discussed in Attachment B, we use the LFC ≥ 2 approach as part of our assessment of whether s 162 outcomes would be produced without regulation. Under that approach, we consider whether the regulated provider faces at least two alternative providers capable of supplying usable alternatives. For Transport services, an alternative provider is included in the LFC ≥ 2 assessment only where the evidence establishes that it can supply a usable alternative for the relevant Transport function.

²⁶ In this chapter and Attachment D, an **alternative provider** is a provider other than the provider whose regulated Transport service is being assessed. An alternative provider may itself be a regulated fibre service provider or an access seeker using self-supplied or leased infrastructure for its own demand.

A **usable alternative** is a Transport service that an alternative provider can practically supply for the relevant Transport function, including through self-supply for the access seeker's own demand. An **alternative path** is the path over which the alternative provider would carry the traffic. The presence of alternative-provider infrastructure or a possible alternative path does not, by itself, establish a usable alternative.

²⁷ We assess each regulated provider separately in each relevant geographic area. We refer to each provider and area pairing as a 'provider-area combination'.

- 3.4 The effectiveness of competitive constraints on Transport services cannot be assessed from the presence of nearby alternative provider fibre alone. A usable alternative requires a practical pathway for traffic to be handed from the regulated provider's network to an alternative provider's network, carried by that alternative provider over an existing or credibly formable alternative path, and delivered to a handover point that the access seeker can practically use.
- 3.5 Taking into account the proportion of assessed link instances meeting LFC ≥ 2 , the broader incidence of usable alternatives indicated by LFC ≥ 1 , and the other evidence available about the effectiveness of the resulting competitive constraints,²⁸ we do not consider that there is sufficient competitive constraint to support deregulation of Transport FFLAS in any assessed provider-area combination. Our draft view is that Transport FFLAS should therefore remain regulated services.

Scope

Product dimension

- 3.6 We are reviewing Transport services supplied within a candidate area.²⁹
- 3.7 Transport services carry traffic between network points. These may include, but are not limited to:
- 3.7.1 intra-candidate-area backhaul services (**ICABS**);
 - 3.7.2 commercial exchange-connect services such as Chorus' CXC;
 - 3.7.3 commercial backhaul where it performs an intra-area Transport function;
 - 3.7.4 dark fibre or Layer 1 Transport between network nodes;
 - 3.7.5 wavelength or Dense wavelength division multiplexing (DWDM) services;
 - 3.7.6 Ethernet Transport; and
 - 3.7.7 links between exchanges, central offices, POIs, SPOIs, POAs, aggregation nodes, data centres or other relevant handover points.

Exclusions

- 3.8 The scope excludes inter-candidate-area, regional or national Transport services because these are not regulated FFLAS.

²⁸ We consider wider evidence alongside the infrastructure assessment, including available information on pricing, switching, capacity, investment and other commercial responses. This evidence is discussed for Point-to-point at paragraphs 2.51–2.60 and for Transport at paragraphs 3.69–3.75.

²⁹ We have used UFB POI Areas per the SPOI determination as an equivalent in our analysis.

- 3.9 As discussed in Chapter 2, while MAS were considered as Transport in the reasonable grounds assessment, our current view is that MAS are better assessed as Point-to-point or access connectivity to non-building access points, rather than as Transport between network nodes. As such, MAS are excluded from this Transport services analysis.

Geographic dimension

- 3.10 This review includes all regulated fibre providers' networks across New Zealand. The providers under review are the regulated fibre service providers:

3.10.1 Chorus (subject to ID and PQ regulation);

3.10.2 Enable (ID-only);

3.10.3 Northpower (ID-only); and

3.10.4 Tuatahi (ID-only).

Analysis

- 3.11 This section applies our deregulation framework to Transport FFLAS to explain how we have reached our draft recommendation. It covers:

3.11.1 a description of the service;

3.11.2 a definition of the market and identification of alternatives;

3.11.3 an assessment of the effectiveness of competitive constraints; and

3.11.4 an assessment against the purpose of Part 6 of the Act.

- 3.12 Attachment B sets out the competition framework, including the LFC ≥ 2 approach applied in this review. Attachment D explains the detailed Transport assessment methodology and presents the provider- and area-specific results and charts. We also consider the available information on pricing, switching, capacity, investment and other commercial responses when assessing the effectiveness of the identified competitive constraints. We consider the LFC ≥ 1 and LFC ≥ 2 results and the wider evidence together when determining whether there is sufficient competitive constraint to support deregulation.

Description of Transport FFLAS

- 3.13 The description for Transport FFLAS is set out in Table 3.1.

Table 3.1 Service description

<i>Category</i>	<i>Technical</i>	<i>Retail side/End-user</i>
Transport FFLAS	Layer 1 or managed throughput fibre services provided over the fibre network to transport voice and data traffic between central offices, including central	ICABS provides RSPs with dark fibre connectivity between exchanges within the

offices that are also points of interconnection (including, but not limited to Intra-Candidate Area Backhaul (**ICABS**), tail extension services and inter-CO fibre services; but excluding national / inter-candidate area backhaul services).

same candidate area. This can be used with other access products to achieve end-to-end and infrastructure solutions.

- 3.14 Transport services carry traffic between relevant network locations. They allow access seekers to move traffic from one point in a network to another, including between network aggregation, interconnection and handover locations.
- 3.15 Transport services may be provided in different technical forms. These include dark fibre, wavelength or DWDM services, Ethernet Transport, CXC-type services, ICABS-type services and commercial backhaul. The relevant feature is not the product label but whether the service performs a Transport function by carrying traffic between network points.
- 3.16 Transport services are closely related to Co-location and interconnection services. They remain separate services, but interconnection, handoff and other connectivity arrangements are enabling inputs for Transport competition. An alternative provider can constrain a regulated provider only where traffic can practically be handed from the regulated provider's network to the alternative provider's network and the alternative provider can receive, carry and deliver that traffic to an access-seeker-usable handover point.
- 3.17 SPOI are relevant context, but not the sole basis, for assessing whether an alternative provider can supply a usable alternative. The relevant question is whether the alternative provider can practically supply a service that substitutes for the Transport service under review.

The market and identification of alternatives

- 3.18 We first consider the wholesale market and any competitive constraints that alternative providers and their services may provide. We then consider whether any indirect competitive constraints exist, including alternatives in adjacent or downstream markets.
- 3.19 We consider the relevant wholesale market to comprise services that can perform the same intra-candidate-area Transport function. The focus is on what the service does, not its product label, technology layer, or commercial form.
- 3.20 Demand for wholesale Transport services is derived from demand for downstream wholesale and retail connectivity services. Access seekers require Transport services where downstream services depend on traffic being carried between network points, aggregation locations, interconnection points or handover locations.
- 3.21 Alternative Transport services may be commercially supplied or self-supplied by a range of providers. These may include:

- 3.21.1 another regulated fibre provider (for example, Chorus in other LFC areas);
 - 3.21.2 an access seeker using self-supplied or leased fibre infrastructure for its own demand;
 - 3.21.3 a third-party fibre provider (including a utility fibre provider);
 - 3.21.4 a data centre connected provider; or
 - 3.21.5 a provider of commercial backhaul, dark fibre, wavelength, Ethernet or other Transport services.
- 3.22 Commercial fibre-based services may be included in the same wholesale market where they represent sufficiently close economic substitutes for the regulated Transport service. This may include existing services already supplied on a relevant path, as well as potential services that could be commissioned or extended where there is sufficient evidence that they could practically be used.

Connectivity is essential for usable alternatives

- 3.23 The presence of alternative provider fibre infrastructure or a possible alternative path is not sufficient on its own. A service is relevant as a usable alternative only where evidence indicates that it could practically substitute for the regulated Transport service being assessed. Route proximity, network overlap or a theoretical build option is not sufficient.
- 3.24 Evidence relevant to whether an alternative provider can supply a usable alternative may include an existing service or path, or a planned or potential service or path that could credibly be commissioned, formed or extended. Attachment D explains how we treated existing, planned and potential services, paths and infrastructure.
- 3.25 The competitive relevance of a usable alternative also depends on the demand for which it is available. An access seeker was treated as an alternative provider in relation to its own demand where it could use self-supplied or leased infrastructure instead of obtaining the relevant Transport service from the regulated provider. The same infrastructure may not provide a wholesale alternative for other access seekers. Attachment D explains how we treated self-supply.
- 3.26 Our view is that Transport competition is route-specific. A broad network-level assessment may mask important differences in whether usable alternatives are practically available for particular Transport paths. We therefore use each individual regulated intra-candidate-area Transport connection as the unit of analysis. Each separate regulated Transport connection is treated as an assessed link instance and contributes once to the results for the relevant regulated provider and area.

- 3.27 This differs from the Point-to-point assessment in Chapter 2. We have analysed Point-to-point services based on access network *coverage* to end-user premises, while for Transport we have analysed the *connectivity* between key network nodes. The assessment for Transport is therefore more closely tied to the relevant path and handover options, rather than to premises coverage.
- 3.28 The existence of a usable alternative does not necessarily mean that the alternative provider imposes an effective competitive constraint. The strength of the constraint may depend on matters such as available capacity, the time and cost required to establish the service, commercial availability, service quality, contract terms and the ability of access seekers to switch. We consider those matters to the extent supported by the available evidence. However, as discussed in Attachment B, where LFC + ≥ 1 represents only one alternative provider capable of supplying a usable alternative, it does not meet the LFC + ≥ 2 benchmark used in our approach to assessing sufficient competitive constraint.

There are no credible technological close substitutes

- 3.29 For the reasons discussed in Chapter 2 and Attachment B, we do not treat DMR, low earth orbit (**LEO**) satellite or FWA as viable close substitutes for the fibre-based services assessed in this review. We therefore focus on fibre-based fixed-network alternatives that could practically perform the relevant Transport function.

Effectiveness of competitive constraints

Assessing the state of competition in the market

- 3.30 Identifying an alternative provider's infrastructure or a possible alternative path does not, by itself, establish a usable alternative. Identifying a usable alternative indicates that the alternative provider may impose some competitive constraint, but does not, by itself, establish that such constraint would be sufficient to produce outcomes that are consistent with those expected in workably competitive markets under s 162.
- 3.31 We consider that assessing competitive constraint for Transport services requires analysis of:
- 3.31.1 the relevant Transport services and any services that may be substitutes for them;
 - 3.31.2 whether an alternative provider has the infrastructure and service capability required to supply a usable alternative;
 - 3.31.3 whether traffic can practically be handed from the regulated provider's network to the alternative provider's network;

- 3.31.4 whether the alternative provider can carry that traffic over an existing or credibly formable alternative path and deliver it to a handover point the access seeker can use;
 - 3.31.5 whether the usable alternative is available for the relevant demand, including whether it is supplied to other access seekers or provided through the relevant access seeker's self-supply;
 - 3.31.6 the capacity, service quality, price and non-price terms of the usable alternative; and
 - 3.31.7 any available evidence of customer switching, competitive pricing responses, entry, expansion, investment or innovation.
- 3.32 As discussed in Attachment B, we apply the LFC ≥ 2 approach when assessing whether the market structure provides sufficient competitive constraint. For Transport, LFC ≥ 2 requires the regulated provider and at least two alternative providers capable of supplying usable alternatives for the relevant Transport function. Identifying one such alternative provider may indicate some competitive constraint but does not meet the LFC ≥ 2 benchmark.
- 3.33 Consistent with the approach taken for Point-to-point services in Chapter 2, we place primary weight on findings about the availability and prevalence of usable alternatives. We also consider the information available on provider scale and capability, pricing, commercial conduct, switching, capacity, investment and expansion when assessing the nature and effectiveness of the resulting competitive constraints. We consider this evidence as a whole when determining whether there is sufficient competitive constraint to support deregulation.

Usable Transport alternatives

- 3.34 Not every fibre asset is relevant to the assessment of a usable alternative. Nearby fibre, ducts, tails, route overlap, access network coverage or node coverage may indicate that an alternative path could potentially be built or commissioned. However, these factors do not establish a usable alternative or resulting competitive constraint unless the evidence indicates that an alternative provider can practically supply the relevant Transport service.
- 3.35 The central question for Transport competition is whether an alternative provider can practically receive traffic handed from the regulated provider's network, carry that traffic over an existing or credibly formable alternative path, and deliver it to a handover point that the access seeker can use.
- 3.36 This test has three elements.
- 3.36.1 practical handoff from the regulated provider's network and receipt by the alternative provider;

3.36.2 infrastructure or service capability to carry the traffic onward; and

3.36.3 delivery to an access-seeker-usable handover point.

3.37 The alternative path must support traffic in both directions. An alternative provider does not need to replicate the regulated provider's route or endpoints where another configuration can practically perform the same Transport function. Attachment D explains how we applied these requirements, including our treatment of different pickup points and handover locations.

LFC ≥ 2 approach and area aggregation

3.38 As explained in Attachment B, we apply the LFC ≥ 2 approach by assessing whether at least two alternative providers are capable of supplying usable alternatives for the relevant Transport function on each assessed link instance.

3.39 Attachment D explains the detailed data inputs, area filter, link-level assessment, treatment of existing and potential services and paths, practical usability criteria and aggregation of results. Attachment D also explains how we treated evidence that was insufficient to establish a usable alternative.

3.40 The link-level assessment identifies the assessed link instances meeting LFC ≥ 2 . Because deregulation on a link-by-link basis may prove impractical, we aggregate the link-level results by regulated provider and POI Area to assess whether LFC ≥ 2 findings are isolated or prevalent across the assessed area.

3.41 For this aggregation step, we report the link-level results using three classifications:

3.41.1 LFC-only: the proportion of assessed link instances for which no alternative provider capable of supplying a usable alternative was identified;

3.41.2 LFC ≥ 1 : the proportion of assessed link instances for which at least one alternative provider capable of supplying a usable alternative was identified; and

3.41.3 LFC ≥ 2 : the proportion of assessed link instances for which at least two alternative providers capable of supplying usable alternatives were identified.

3.42 LFC-only and LFC ≥ 1 together account for all assessed link instances. LFC ≥ 2 is a subset of LFC ≥ 1 . The area-level assessment focuses principally on LFC ≥ 2 because it identifies the assessed link instances meeting the benchmark used under the LFC ≥ 2 approach. LFC ≥ 1 provides supplementary information about the broader incidence of some competitive constraint.

- 3.43 We use 50% as an analytical reference point for considering whether LFC ≥ 2 findings are limited or prevalent across an assessed area. The 50% reference point measures the proportion of assessed link instances in a provider-area combination meeting LFC ≥ 2 . We consider the reference point useful because it indicates whether LFC ≥ 2 conditions are relatively widespread across the assessed links, rather than confined to a minority of links. It is not part of the LFC ≥ 2 approach in Attachment B and is not a separate analytical benchmark for workable competition. We do not determine the outcome solely by whether a result is above or below 50%; we also consider other available evidence about the effectiveness of the identified competitive constraints.
- 3.44 In the results charts, LFC ≥ 2 is shown separately within the LFC ≥ 1 result to make clear that it is a subset of LFC ≥ 1 . Attachment D explains the chart presentation in more detail.
- 3.45 Attachment D also considers whether the area-level findings depend materially on using 50% as the analytical reference point. This does not alter the LFC ≥ 2 approach adopted in Attachment B or establish an alternative analytical benchmark for assessing workable competition.

Comparison to the Point-to-point reference point

- 3.46 The 50% analytical reference point for Transport differs from the 70% geographic-coverage reference point used for Point-to-point because the assessments use different units and levels of granularity. Point-to-point is assessed across a large number of premises within a geographic area, while Transport is assessed across a smaller number of discrete, route-specific link instances between network locations.
- 3.47 We use 50% as an analytical reference point for considering whether LFC ≥ 2 conditions apply to at least half of the assessed Transport link instances. The different reference points do not change the LFC ≥ 2 approach or the number of alternative providers considered, and neither reference point by itself determines whether sufficient competitive constraint exists. The percentages are not directly comparable because the Transport reference point applies to route-specific link instances, while the Point-to-point reference point applies to address coverage within a geographic area.

Initial area filter

- 3.48 We used provider-declared intra-candidate-area Transport links as an initial screening tool.
- 3.49 The purpose of the initial area filter was to identify areas where detailed link-level assessment was most likely to be useful. The area filter is not a finding about whether there is sufficient competitive constraint, and does not apply either the LFC ≥ 2 approach in Attachment B or the 50% analytical reference point.

- 3.50 At the first stage, we considered whether the available data indicated the presence of the regulated provider and at least two other providers with Transport links or relevant fibre infrastructure in the candidate area. We then considered whether the other providers' Transport activity extended beyond isolated links and was sufficient to make detailed link-level assessment useful. We also considered whether route-specific services or paths, targeted infrastructure overlap or particular handoff locations warranted further assessment. Attachment D explains the area filter process and identifies the areas progressed for detailed or targeted review.
- 3.51 Areas screened out at this stage were not progressed to detailed link-level assessment. This does not reflect a detailed route-by-route finding that no competitive constraint exists. Rather, the available data did not show multi-provider Transport activity extending beyond isolated links, or route-specific evidence to warrant further assessment of whether deregulation may be appropriate in this review.

Assessment by regulated provider and area

- 3.52 Transport competition varies by area and route. In some areas, there is more overlapping fibre infrastructure and greater opportunity for practical connection between networks. In other areas, alternative provider infrastructure is more limited and practical handoff options are fewer. We take these differences into account when assessing each link instance. For a link to meet LFC ≥ 2 , at least two alternative providers must be capable of supplying usable alternatives for the relevant Transport function.
- 3.53 Table 3.2 summarises the link-level results for each regulated provider and assessed area. LFC-only and LFC ≥ 1 together account for all assessed link instances, while LFC ≥ 2 is shown separately as a subset of LFC ≥ 1 . The area-level assessment focuses principally on LFC ≥ 2 ; LFC ≥ 1 provides supplementary information about the broader incidence of some competitive constraint. Provider- and area-specific charts and supporting commentary are set out in Attachment D.

Table 3.2 Summary of Transport infrastructure assessment

<i>Regulated provider and area</i>	<i>LFC-only</i>	<i>LFC ≥ 1</i>	<i>LFC ≥ 2</i>	<i>Summary</i>
Enable – Christchurch	48%	52%	26%	Material incidence of usable alternatives, with an LFC ≥ 2 result above most assessed areas; however, LFC ≥ 2 was not prevalent across the assessed area
Northpower – Whangārei	85%	15%	0%	Usable alternatives were limited; no assessed link instance met LFC ≥ 2
Tuatahi – Hamilton	74%	26%	15%	Some usable alternatives were identified, including targeted LFC ≥ 2 findings

<i>Regulated provider and area</i>	<i>LFC-only</i>	<i>LFC +≥1</i>	<i>LFC +≥2</i>	<i>Summary</i>
Tuatahi – New Plymouth	62.5%	37.5%	37.5%	Highest LFC +≥2 result; every link instance meeting LFC +≥1 also met LFC +≥2, but those findings occurred on 37.5% of assessed link instances
Tuatahi – Tauranga	75%	25%	25%	All link instances with a usable alternative met LFC +≥2, but those findings occurred on only 25% of assessed link instances
Tuatahi – Whanganui	100%	0%	0%	No usable alternative was identified on the current evidence
Chorus – Auckland	60%	40%	11%	Some usable alternatives, but LFC +≥2 findings were isolated
Chorus – Christchurch	64%	36%	0%	Some usable alternatives; no assessed link instance met LFC +≥2
Chorus – Hamilton	69%	31%	25%	Targeted LFC +≥2 findings, but they were not prevalent across the assessed area
Chorus – Napier / Hastings	57%	43%	0%	Some link instances had a usable alternative, no assessed link instance met LFC +≥2
Chorus – Nelson	40%	60%	0%	Material LFC +≥1 result; no assessed link instance met LFC +≥2
Chorus – New Plymouth	50%	50%	25%	Some competitive constraint, but a materially lower proportion met LFC +≥2
Chorus – Palmerston North	80%	20%	0%	Usable alternatives were limited; no assessed link instance met LFC +≥2
Chorus – Tauranga	71%	29%	24%	Targeted LFC +≥2 findings, but they were not prevalent across the assessed area
Chorus – Wellington	12.5%	87.5%	25%	High incidence of at least one usable alternative, but materially fewer link instances met LFC +≥2
Chorus – Whangārei	81%	19%	0%	Usable alternatives were limited; no assessed link instance met LFC +≥2

Note: LFC +≥2 is a subset of LFC +≥1. The two measures should not be added together. The 50% analytical reference point applies to the proportion of assessed link instances meeting LFC +≥2.

3.54 The assessment identifies usable alternatives on some links across Chorus and other LFC areas. In several assessed areas, LFC +≥1 findings indicate that regulated providers may face some competitive constraint on a material proportion of assessed link instances. A smaller proportion met LFC +≥2.

- 3.55 Our principal focus in the area-level assessment is the proportion of assessed link instances meeting LFC ≥ 2 . No assessed provider-area combination had LFC ≥ 2 findings on at least 50% of its assessed link instances. While some provider-area combinations had LFC ≥ 2 findings on a smaller proportion of assessed link instances, this result is relevant but not determinative; we also consider the incidence of LFC ≥ 1 and the wider evidence about the effectiveness of the competitive constraints.

Findings

Enable – Christchurch

- 3.56 Enable–Christchurch shows stronger competitive conditions than several other assessed areas. Of the assessed link instances, 52% met LFC ≥ 1 and 26% met LFC ≥ 2 .
- 3.57 The LFC ≥ 1 result is different from an LFC-only finding and indicates that Enable may face some competitive constraint across a material proportion of the assessed links. However, 26% of assessed link instances met LFC ≥ 2 .
- 3.58 The proportion of assessed link instances meeting LFC ≥ 2 does not demonstrate that those conditions are prevalent across the assessed area. The available evidence on pricing, switching, capacity and commercial responses is not sufficiently comprehensive to establish a broader or more durable constraint than the infrastructure findings indicate.

Northpower – Whangārei

- 3.59 In Northpower – Whangārei, 15% of assessed link instances met LFC ≥ 1 , while no assessed link instance met LFC ≥ 2 . The evidence indicates limited competitive constraint and does not demonstrate sufficient competitive constraint to support deregulation across the assessed area.

Tuatahi – Hamilton, Tauranga, New Plymouth and Whanganui

- 3.60 The highest LFC ≥ 2 result was Tuatahi–New Plymouth at 37.5%, indicating that multiple usable alternatives were identified for a meaningful subset of assessed link instances. Every assessed link instance in New Plymouth meeting LFC ≥ 1 also met LFC ≥ 2 . However, those findings occurred on 37.5% of assessed link instances and were not prevalent across the assessed area.
- 3.61 The other Tuatahi results varied. Hamilton had LFC ≥ 1 findings on 26% of assessed link instances and LFC ≥ 2 findings on 15%; Tauranga had 25% for both measures; and no usable alternative was identified in Whanganui. Considered together or separately, the results do not demonstrate sufficient competitive constraint to support deregulation across any assessed Tuatahi area.

Chorus

- 3.62 The Chorus results also identify usable alternatives and some link instances meeting LFC ≥ 2 . The extent of those findings varies by area.
- 3.63 Several Chorus results illustrate the distinction between LFC ≥ 1 and LFC ≥ 2 :
- 3.63.1 in Wellington, 87.5% of assessed link instances met LFC ≥ 1 , while 25% met LFC ≥ 2 ;
 - 3.63.2 in Nelson, 60% met LFC ≥ 1 , while no assessed link instance met LFC ≥ 2 ; and
 - 3.63.3 in New Plymouth, 50% met LFC ≥ 1 and 25% met LFC ≥ 2 .
- 3.64 These results indicate that Chorus may face some competitive constraint across a material proportion of links in certain areas. They also show that LFC ≥ 1 may be materially more widespread than LFC ≥ 2 , including in Wellington where 87.5% of assessed link instances met LFC ≥ 1 but 25% met LFC ≥ 2 .
- 3.65 Other Chorus areas had targeted but limited LFC ≥ 2 findings, including Hamilton at 25%, Tauranga at 24% and Auckland at 11%. No assessed Chorus link instance met LFC ≥ 2 in Whangārei, Christchurch, Nelson, Napier/Hastings or Palmerston North.
- 3.66 Considered across the assessed Chorus areas, the proportion of assessed link instances meeting LFC ≥ 2 does not demonstrate that those conditions are prevalent in any assessed area. The LFC ≥ 1 findings in some areas are evidence of some competitive constraint, but do not replace the LFC ≥ 2 assessment.

Overall infrastructure finding

- 3.67 Across all assessed providers and areas, the results show a range of conditions. Some areas have little evidence of usable alternatives; some have a material incidence of LFC ≥ 1 ; and some contain targeted links meeting LFC ≥ 2 . The results should therefore not be characterised as showing an absence of all competitive constraint.
- 3.68 Having assessed the availability and prevalence of usable infrastructure alternatives, the relevant issue is whether the identified constraints are sufficient to support deregulation. The infrastructure-based assessment identifies some competitive constraint on particular links but no prevalent LFC ≥ 2 conditions in any assessed provider-area combination. We consider below whether the available wider evidence demonstrates that those constraints are effective or otherwise supports or qualifies these findings.

Wider evidence on the effectiveness of competitive constraints

- 3.69 We considered whether the information available on pricing, non-price terms, switching, capacity, investment, expansion and innovation supports or qualifies the infrastructure findings and what it indicates about the effectiveness of the resulting competitive constraints.³⁰
- 3.70 The information available does not enable us to undertake a comprehensive like-for-like comparison of Transport pricing, non-price terms or service quality across providers and routes. This limits both our ability to assess the effectiveness of the identified competitive constraints and our ability to assess whether current regulation constrains prices or improves service outcomes for individual Transport services or routes.
- 3.71 One potentially relevant indicator is whether a regulated provider offers different prices, products or commercial terms where it faces usable alternatives. For example, differences between Chorus' Transport offerings within its own regulated area and its offerings in other LFC areas may indicate a response to different competitive conditions. However, a reliable comparison would need to account for differences in route length, network configuration, capacity, service specification, customer requirements, costs, regulatory treatment and contracting arrangements.
- 3.72 The information available does not support a comprehensive like-for-like comparison of Transport prices or terms. We therefore do not make a firm finding about whether regulated providers systematically price or behave differently where usable alternatives are present. Nor do we treat the absence of such a finding as evidence that there is no competitive response. The limited evidence available does not provide a sufficient basis to conclude that the identified constraints are materially broader, more durable or more effective than indicated by the infrastructure assessment.
- 3.73 The information also does not enable us to conclude that ID regulation directly constrains the price of an individual Transport service or route or improves service quality at that level. The clearer benefit of continued ID regulation is that it preserves transparency and supports monitoring of providers' overall regulated financial performance, including whether providers are earning excessive profits across regulated FFLAS, to the extent supported by the disclosed information.

³⁰ Provider responses to Commission issued RFIs – Attachment A.

- 3.74 We did not receive sufficient information to assess switching between Transport providers. We also have limited information on whether capacity, timing or contracting constraints affect the effectiveness of the competitive constraints imposed by the alternatives identified. The investment and expansion information identified a small number of planned sites, routes, additional cables and capacity or diversity upgrades. These projects were generally targeted at resilience, capacity or continued service delivery, rather than broader network expansion across an assessed area. Relevant planned sites, routes and cables were considered in the infrastructure assessment. On the information available, these plans are unlikely to materially change competitive conditions across an assessed area.
- 3.75 To help address the information gaps identified above, we invite submissions, supported by evidence where possible, on:
- 3.75.1 whether regulated providers offer different Transport prices, discounts, products or non-price terms where usable alternatives are present;
 - 3.75.2 whether an LFC's Transport offerings or negotiated terms differ between its own regulated area and areas in which another LFC is the regulated provider;
 - 3.75.3 whether any observed differences are attributable to competitive conditions rather than differences in route, cost, capacity, service specification, regulation or customer requirements;
 - 3.75.4 actual switching, multi-sourcing, tender outcomes or credible threats to switch between Transport providers;
 - 3.75.5 whether capacity, service quality, timing or contracting constraints affect the practical effectiveness of the alternatives identified;
 - 3.75.6 whether the LFC +≥1 findings identified in our assessment materially constrain price, service quality, terms or innovation;
 - 3.75.7 planned investment, expansion, interconnection or commercial arrangements likely to materially change the availability of usable alternatives; and
 - 3.75.8 whether the usable alternatives identified in any assessed provider-area effectively constrain prices, terms, service quality or investment, supported by evidence such as price comparisons, tender outcomes, switching, capacity and connection timeframes.

Alignment with the purpose in sections 162 and 166(2)(b)

- 3.76 We now consider whether Transport FFLAS should no longer be regulated, having regard to whether our recommendation best gives, or is likely to best give, effect to the purpose in s 162 and the promotion of workable competition in telecommunications markets for the long-term benefit of end-users under s 166(2)(b).
- 3.77 We compare the factual, being the future state with existing regulation, with the relevant counterfactuals. We consider which regulatory state best gives, or is likely to best give, effect to the s 162 purpose and to the promotion of workable competition in telecommunications markets for the long-term benefit of end-users under s 166(2)(b).
- 3.78 We consider s 166(2)(b) relevant for Transport services. Transport services are wholesale inputs used by access seekers to support downstream wholesale and retail telecommunications services. The price, terms and availability of Transport services can therefore affect the ability of access seekers and other providers to compete in related telecommunications markets. The relevant question is which available regulatory state best gives, or is likely to best give, effect to the promotion of workable competition in those markets for the long-term benefit of end-users.
- 3.79 As set out above, the current evidence does not demonstrate sufficient competitive constraint to support deregulation of Transport services in any assessed provider-area combination. The infrastructure assessment identifies LFC ≥ 1 findings on some links and targeted links meeting LFC ≥ 2 , but no assessed area has LFC ≥ 2 findings on at least 50% of assessed link instances. That result is not determinative. However, the distribution of those findings and the available information on pricing, switching, capacity, investment and other commercial responses do not establish a sufficiently effective competitive constraint to support deregulation when the evidence is considered as a whole.
- 3.80 We also do not expect material changes in competitive conditions in the foreseeable future. As discussed above, the available information does not identify planned investment or expansion likely to materially increase the availability of usable alternatives across an assessed area.

Factual assessment: future state with existing regulation

- 3.81 Under the factual, Transport services would continue to be regulated under Part 6. Enable, Northpower, and Tuatahi would remain subject to ID regulation, and Chorus would remain subject to ID and PQ regulation where those forms of regulation currently apply.
- 3.82 Under ID regulation, providers disclose service-level information, either publicly or to the Commission. For Transport services, we require the disclosure of:

- 3.82.1 pricing, contractual terms, and demand information at a product level; and
 - 3.82.2 information on quality and expenditure at a total (all Transport services) level.
- 3.83 Transport services are also included in financial and asset management information disclosed at the regulated business level (or in Chorus' case ID-only and PQ-regulated level). This preserves public and regulatory transparency and enables performance to be monitored over time and, where appropriate, relative to other regulated providers. ID does not directly set individual Transport prices, prescribe terms or necessarily require supply of a particular Transport service.
- 3.84 Chorus Transport subject to PQ regulation would remain subject to the aggregate revenue cap that applies across all its PQ-regulated FFLAS. Transport services are also subject to any applicable quality requirements. The PQ framework constrains Chorus' regulated revenue in aggregate but does not necessarily set the price of an individual Transport service.
- 3.85 Continued ID regulation would maintain transparency and regulatory oversight where access seekers have limited practical alternatives. This information helps the Commission and other stakeholders assess whether providers' performance is consistent with the s 162 outcomes, including whether providers have incentives to invest and innovate, improve efficiency and service quality, share efficiency gains with end-users, and are limited in their ability to extract excessive profits. For Chorus, PQ regulation may additionally promote those outcomes through the revenue and any applicable quality constraints described at paragraph 3.84. We do not assume that ID directly causes investment, innovation, improved quality or lower prices; its principal role is to provide information that allows those outcomes to be assessed.
- 3.86 For ID-only providers, the principal regulatory benefit is transparency and monitoring rather than direct control of individual Transport prices or terms. In particular, ID helps the Commission assess whether providers are earning excessive profits across regulated FFLAS, to the extent permitted by the disclosed information.
- 3.87 As noted above in Chapter 2 with respect to MAS, where we consider the promotion of workable competition under s 166(2)(b) is relevant (such as MAS), as we noted when introducing ID regulation, we consider that ID best gives effect to the promotion of workable competition in telecommunications markets as it can disincentivise regulated providers from behaving in ways that harm competition, and can enable access seekers (or competing infrastructure providers) to bargain more effectively.³¹ These effects are especially relevant to pricing and contract disclosures.

³¹ Commerce Commission "[Fibre information disclosure – Final determination reasons paper](#)" (30 November 2021), paras 2.36-2.37.

- 3.88 Continued regulation is also consistent with s 166(2)(b). Because Transport services support downstream service delivery, prices or terms could increase access seekers' costs and affect competition in related telecommunications markets where practical Transport alternatives are limited.
- 3.89 However, we place less weight on a risk that providers would withhold supply to foreclose downstream competition. The regulated providers are vertically separated and generally have commercial incentives to encourage use of their networks. The more plausible concern is the exercise of market power through the price or terms of an important wholesale input.

Counterfactual assessment

Future state without Part 6 regulation

- 3.90 Under the counterfactual, Transport services would no longer be regulated under Part 6.
- 3.91 Deregulation may provide some benefits, including reduced compliance obligations and greater commercial flexibility. The nature and extent of those benefits differ between the ID-only providers and Chorus, as explained below.
- 3.92 For Enable, Northpower and Tuatahi, which are subject to ID regulation but not PQ regulation, deregulation would not materially increase pricing flexibility because these providers already have discretion over Transport pricing. Any benefit for these providers would mainly relate to reduced ID or reporting obligations. The significance of this benefit depends on the Transport-specific compliance costs that would be avoided, less any implementation costs required to separate deregulated Transport services from remaining regulated FFLAS.
- 3.93 For Chorus, which is subject to both PQ and ID regulation, deregulation may provide greater commercial flexibility where Transport services form part of regulated FFLAS revenue, cost or quality reporting. However, any benefit from increased flexibility needs to be weighed against the potential detriments from removing both ID and PQ regulation. We separately consider at paragraphs 3.96–3.98 the option of retaining ID while removing PQ regulation.
- 3.94 Potential adverse outcomes from deregulation include:
- 3.94.1 loss of the information currently disclosed under ID about Transport services, to the extent it is separately identifiable;
 - 3.94.2 reduced ability for the Commission and other stakeholders to monitor whether Transport outcomes remain consistent with the purpose of Part 6;
 - 3.94.3 reduced visibility of prices and terms where access seekers have limited practical Transport alternatives;

- 3.94.4 for Chorus, removal of the additional revenue and any applicable quality constraints applying under PQ regulation; and
 - 3.94.5 potential effects on competition in related telecommunications markets if Transport prices or terms materially increase access seekers' costs.
- 3.95 Deregulation may also create implementation costs, including the costs of developing and maintaining revised cost allocation models. Transport services may share infrastructure, systems, common costs and operational processes with other regulated FFLAS. If Transport services were deregulated while other FFLAS remained regulated, providers would, to the extent required, need to distinguish or allocate costs, revenues and assets associated with deregulated Transport services from those associated with remaining regulated services.

Chorus remains subject to ID but not PQ regulation

- 3.96 Under this alternative, Chorus Transport would remain subject to ID regulation but would no longer be subject to PQ regulation. Public and regulatory transparency would therefore be retained, while Chorus would gain additional flexibility to price and manage Transport services outside the applicable revenue cap and any applicable quality framework.
- 3.97 Removing PQ while retaining ID would preserve the monitoring benefits described at paragraphs 3.85 and 3.87 but would remove the inclusion of Transport revenue within Chorus' revenue path and any applicable quality standards and would require any consequential changes to the treatment or allocation of Transport costs and assets. It may reduce compliance costs and provide Chorus with additional commercial flexibility. The significance of those benefits depends on the extent to which Transport-specific PQ obligations or allocations would cease, while the significance of the potential detriment depends on whether PQ currently provides a material additional constraint on Chorus' Transport revenue or quality beyond ID.
- 3.98 On the current evidence, our draft view is that retaining both ID and PQ regulation for Chorus Transport best gives, or is likely to best give, effect to ss 162 and 166(2)(b). Retaining ID alone would preserve transparency and monitoring but would remove the additional aggregate revenue constraint and any applicable quality constraints provided by PQ regulation. We have not identified evidence that the additional commercial flexibility or compliance-cost savings from removing PQ would outweigh the loss of those constraints, particularly where the evidence does not demonstrate sufficient competitive constraint to support deregulation in any assessed Chorus provider-area combination. This is particularly relevant given the limited competitive constraints identified in the assessed Chorus provider-area combinations.
- 3.99 We invite submissions on the practical effect of removing PQ while retaining ID for Chorus Transport, including the effect on Chorus' regulated revenue, quality requirements, cost and asset allocation, compliance costs and commercial flexibility.

Overall assessment of the regulatory state that best gives effect to sections 162 and 166(2)(b)

- 3.100 Overall, our view is that continued ID regulation for Enable, Northpower and Tuatahi and continued PQ regulation for Chorus where it currently applies best gives, or is likely to best give, effect to ss 162 and 166(2)(b).
- 3.101 Alternative provider infrastructure is present in some places, and in some cases the evidence establishes LFC ≥ 1 . A subset of those link instances meets LFC ≥ 2 . These findings indicate some competitive constraint on particular links.
- 3.102 The available evidence does not demonstrate sufficient competitive constraint to support deregulation in any assessed provider-area combination. Continued ID preserves transparency and monitoring, while PQ provides Chorus with the additional effects identified at paragraphs 3.84-3.85. Full deregulation would remove those benefits. For Chorus, we have also considered whether retaining ID while removing PQ would better give effect to the statutory purposes.

Draft recommendation

- 3.103 For the reasons outlined in this draft report, our draft view is that Transport FFLAS should continue to be regulated under Part 6 of the Act. This means retaining ID regulation for all regulated providers and also retaining PQ regulation for Chorus where it currently applies.
- 3.104 Accordingly, our draft recommendation is not to deregulate Transport FFLAS at this time.

Chapter 4 Recommendation for Co-location and interconnection FFLAS

Draft recommendation

- 4.1 Our draft recommendation is that Co-location and interconnection services in non-Chorus LFC areas remain subject to regulation under Part 6 of the Act.
- 4.2 Our draft view is that the evidence currently available does not demonstrate sufficient competitive constraint to support deregulation of Co-location and interconnection services in those areas. For network-specific interconnection, we have not identified an alternative arrangement that avoids the involvement of the relevant LFC. For physical accommodation, alternatives may exist in some locations, but the current evidence does not establish both sufficiently effective and available alternatives and a clear and workable boundary to support partial deregulation.
- 4.3 We reach this view because Co-location and interconnection services contain two related but distinct functions:
 - 4.3.1 Co-location is physical accommodation, such as space, racks, power, cooling, security and site access; and
 - 4.3.2 Interconnection services are network-specific interconnection functionality, such as handover connections, Ethernet handover connections, tie cables, jumpering, fibre patching and other arrangements that allow traffic to be exchanged with the relevant LFC network.
- 4.4 This distinction is central to our assessment. Physical accommodation may sometimes be available from an alternative provider, such as a third-party facility owner, data centre, host provider or another LFC. An access seeker may also be able to avoid physical accommodation at an LFC facility by using a tail, backhaul service or other remote handoff arrangement. However, where an access seeker needs to connect to the relevant LFC network, network-specific interconnection involving that LFC remains necessary.
- 4.5 Alternative physical accommodation or connectivity may reduce the scope of the services that an access seeker must obtain from the relevant LFC. However, we have not identified an arrangement that allows an access seeker to obtain the network-specific interconnection required to access an LFC network without the involvement of that LFC.

- 4.6 Physical accommodation and network-specific interconnection are distinct functions. We have therefore also considered whether physical accommodation should be deregulated separately while regulation is retained for network-specific interconnection. Although the functions can be distinguished conceptually, partial deregulation also requires a clear and stable regulatory boundary capable of being applied to associated products, revenues, costs and assets across different provider and facility arrangements. We consider below the availability of alternative accommodation and whether a clear and workable regulatory boundary can be drawn between the two functions.
- 4.7 Co-location and interconnection services are also enabling inputs for other fibre services, including Transport and Bitstream access. If access seekers or alternative providers cannot obtain practical interconnection or handoff, they may be unable to access the LFC network or receive traffic from it. This enabling role reinforces the importance of considering the terms on which network-specific interconnection is supplied where no alternative arrangement has been identified.
- 4.8 Accordingly, our preliminary view is that there is insufficient competitive constraint in network-specific interconnection to support deregulation. We separately assess below whether physical accommodation is sufficiently constrained by alternatives, and capable of being separated from interconnection through a clear and workable regulatory boundary, to support partial deregulation.

Scope

- 4.9 We are reviewing Co-location and interconnection services supplied in non-Chorus LFC areas.

Product dimension

- 4.10 The regulated service includes network equipment accommodation and management services and network-specific interconnection services. This includes, but is not limited to:
- 4.10.1 central office Co-location;
 - 4.10.2 POI or SPOI Co-location;
 - 4.10.3 handover connections;
 - 4.10.4 Ethernet handover connections;
 - 4.10.5 tie cables;
 - 4.10.6 jumpering;
 - 4.10.7 fibre patching; and

- 4.10.8 equivalent arrangements that allow access seekers to connect to the LFC network and hand over or pick up traffic.
- 4.11 The scope is not limited to physical rack space or access to a building or facility. It includes the interconnection functionality required to access the relevant LFC network. For the purpose of assessing competitive constraints and whether partial deregulation is workable, we consider physical accommodation and network-specific interconnection separately as well as in combination. We also consider whether the two functions can be distinguished on a clear and stable basis for regulatory purposes.

Geographic dimension

- 4.12 This review examines competition in Co-location and interconnection services within areas served by a non-Chorus LFC's (Enable, Northpower or Tuatahi) fibre access network, as those areas were defined in the reasonable grounds assessment.
- 4.13 We interpret this scope as covering an area in which a non-Chorus LFC operates a fibre access network. This allows us to assess areas where more than one LFC is present, provided that at least one is a non-Chorus LFC. The other LFC may be Chorus or another non-Chorus LFC.
- 4.14 Where more than one regulated provider supplies the relevant services in an area, our draft view is that any recommendation to deregulate should apply to the relevant services supplied by all regulated providers in that area. In practice, this would affect only Chorus where Chorus operates in another LFC's area, as we have not identified any areas in which two non-Chorus LFCs operate competing fibre access networks.

Why this service was considered for review

- 4.15 'Co-location and interconnection services' was considered for review because submissions on our draft reasonable grounds assessment suggested that alternative providers may offer physical accommodation and, in some cases, the relevant LFC may not own the exchange or facility in which its equipment is located.³²
- 4.16 In these hosted LFC scenarios, an LFC may be located in:
- 4.16.1 another LFC's exchange;
 - 4.16.2 an RSP facility; or
 - 4.16.3 a third-party site.

³² Chorus "[Submission on FFLAS deregulation review – RGA draft decision](#)" (24 September 2024); Enable "[Submission on FFLAS deregulation review – RGA draft decision](#)" (24 September 2024); Tuatahi "[Submission on FFLAS deregulation review – RGA draft decision](#)" (24 September 2024).

- 4.17 This raised the question of whether the non-Chorus LFC could exercise market power over Co-location and interconnection services if access seekers could obtain physical accommodation directly from the host facility owner. Submissions also raised whether an access seeker could obtain physical accommodation from the host and use a tie cable or equivalent arrangement to connect to the relevant LFC network.³³
- 4.18 The submissions raised two related questions:
- 4.18.1 whether alternative providers can supply or replace physical accommodation that would otherwise be obtained from the provider of the relevant network; and
 - 4.18.2 whether those alternatives also constrain the terms of the interconnection arrangements involving the relevant LFC.
- 4.19 We consider these questions in our assessment below.

Analysis

- 4.20 This section applies our deregulation framework to Co-location and interconnection FFLAS to explain how we have reached our draft recommendation. It covers:
- 4.20.1 a description of the service;
 - 4.20.2 a definition of the market and identification of alternatives;
 - 4.20.3 an assessment of the effectiveness of competitive constraint; and
 - 4.20.4 an assessment against the purpose of Part 6.
- 4.21 Attachment B sets out the competition framework, including the LFC + ≥ 2 approach applied in this review. For Co-location and interconnection services, our assessment considers separately whether alternative arrangements can replace or avoid physical accommodation and whether they can replace network-specific interconnection. We then consider whether the two functions can be separated through a clear and workable regulatory boundary. We also consider the available information on prices, contractual terms, switching and other provider conduct when assessing the effectiveness of the identified alternatives.

Description of Co-location and interconnection FFLAS

- 4.22 The description for Co-location and interconnection FFLAS is set out in Table 4.1.

³³ Tuatahi “[Submission on FFLAS deregulation review – RGA draft decision](#)” (24 September 2024).

Table 4.1 Service description

<i>Category</i>	<i>Technical</i>	<i>Retail side/End-user</i>
<i>Co-location and interconnection FFLAS</i>	Network equipment accommodation and management services, including network interconnection services (including, but not limited to, central office and POI Co-location services, handover connections, Ethernet handover connections, tie cables and jumpering).	Central Office and POI Co-location allows RSPs to install equipment in exchanges. Property or facility services may include electricity, back-up power, seismic support, cooling, security and site access, depending on the relevant facility and provider. Interconnection services allow access seekers to connect to the relevant LFC network to use the services supplied over that network.

- 4.23 Co-location and interconnection services allow access seekers to locate equipment and exchange traffic at relevant points in a fibre network.
- 4.24 For the purposes of this assessment, the relevant distinction is between:
- 4.24.1 physical Co-location, which provides a place to install or host equipment; and
 - 4.24.2 interconnection, which provides the ability to access the LFC network and hand over or pick up traffic.
- 4.25 These functions may be supplied together or separately. For example, an access seeker may obtain accommodation from a host facility owner or use third-party backhaul, a tail or another remote handoff arrangement, while still obtaining network-specific interconnection involving the relevant LFC. The absence of a substitute for network-specific interconnection therefore does not, by itself, establish that physical accommodation should remain regulated.

The market and identification of alternatives

- 4.26 We first consider the wholesale market and any competitive constraints that alternatives may provide. We then consider whether any indirect competitive constraints exist, including alternatives in adjacent or downstream markets.
- 4.27 We consider the relevant wholesale market to comprise services that provide physical accommodation and network-specific interconnection functionality required to access an LFC network. Because the regulated service contains two related but distinct functions, we consider the constraints on each function separately as well as in combination.

- 4.28 Potential alternatives may include third-party exchange space, data centre space, another LFC's exchange, RSP facilities, host provider facilities, space leased by an LFC in another party's facility, third-party backhaul, tails, remote handoff, fibre patching, inter-central office fibre, or other equivalent handoff arrangements.
- 4.29 These alternatives may constrain the physical accommodation element of the service in some circumstances. For example, an access seeker may be able to locate equipment in a data centre or host provider facility instead of taking rack space directly from the LFC.
- 4.30 An alternative provider may replace physical accommodation or provide connectivity to a POI even though the access seeker continues to require network-specific interconnection. We therefore consider which components can be obtained from another provider and whether an alternative source exists for the components that remain necessary.
- 4.31 Where an access seeker needs access to a particular LFC network, the interconnection element remains network-specific. The alternatives identified may provide accommodation or connectivity to the relevant POI, but they do not enable the access seeker to obtain the network-specific handover or connection without the involvement of that LFC.

Information considered about current arrangements

- 4.32 We considered information about POIs and current Co-location and interconnection arrangements in non-Chorus LFC areas. This included information provided by Enable, Northpower and Tuatahi, together with available information about Chorus and other providers operating in those areas, site ownership, other provider infrastructure and connectivity to relevant POIs.
- 4.33 We observed that the arrangements differ between providers and locations. At some POIs, the relevant LFC is hosted in a facility owned by another provider, meaning that physical accommodation may be available directly from the host. At other POIs, tails or other third-party connectivity may allow an access seeker to reach the POI without locating equipment there. These arrangements may reduce or avoid the need to obtain physical accommodation from the relevant LFC.
- 4.34 This information supports submissions that physical accommodation at a POI may sometimes be obtained from another provider or avoided. In those circumstances, the relevant LFC may have limited or no control over the physical accommodation component. However, the information does not identify an arrangement that removes the need for the relevant LFC's involvement in network-specific interconnection. We consider below the competitive constraints on network-specific interconnection, before separately considering physical accommodation and whether a workable regulatory boundary can be drawn between the two functions.

Effectiveness of competitive constraints

- 4.35 We assess competitive constraints on Co-location and interconnection services from three perspectives:
- 4.35.1 the competitive constraints on network-specific interconnection;
 - 4.35.2 the competitive constraints on physical accommodation and whether physical accommodation can be treated separately from network-specific interconnection; and
 - 4.35.3 the role of Co-location and interconnection as an enabling input for other FFLAS.

Assessment of network-specific interconnection

- 4.36 For network-specific interconnection, the key question is whether an access seeker can obtain the interconnection required to use services supplied over the relevant LFC network without relying on that LFC for the interconnection function.
- 4.37 Alternative providers of physical accommodation, host provider facilities and third-party connectivity may reduce reliance on the physical accommodation component supplied by the LFC. The information we considered shows that this occurs, or may occur, in different ways across providers and locations in non-Chorus LFC areas. This indicates some constraint on, or ability to avoid, the physical accommodation component. It does not identify an arrangement that avoids reliance on the relevant LFC for network-specific interconnection.
- 4.38 Attachment B sets out the LFC ≥ 2 analytical benchmark used within our assessment of infrastructure-based competition. The application of that benchmark must reflect the network-specific nature of the function being assessed. For network-specific interconnection, access to a particular LFC network requires network-specific handoff or interconnection involving that LFC. A host facility owner, tail provider or other provider of physical accommodation or connectivity cannot independently provide interconnection with that network.
- 4.39 Alternative accommodation and connectivity may therefore reduce the scope of the services that must be obtained from the relevant LFC, but do not remove reliance on that LFC for network-specific interconnection. The identified arrangements therefore do not establish LFC ≥ 2 conditions under our analytical benchmark for assessing infrastructure-based competition. Our preliminary view is that there is insufficient competitive constraint in network-specific interconnection to support deregulation.

- 4.40 On the evidence available, we do not consider that the identified alternatives are sufficient to support deregulation of network-specific interconnection. This conclusion is based primarily on the structural dependence on the provider of the relevant network for interconnection. We also considered the available information on prices, contractual terms, switching and other provider conduct when assessing the practical effect of that dependence. We separately assess physical accommodation below.
- 4.41 While we require the disclosure of information on pricing, demand, and contractual terms for Co-location and interconnection services provided by regulated LFCs, we lack comparable information about unregulated alternatives. This limits the conclusions we can draw about how structural dependence affects access seekers in practice. Given the interdependency between Co-location, interconnection, and other FFLAS discussed above, we do not consider collecting and analysing this information would have materially altered our conclusions.
- 4.42 The available investment information does not identify material plans to expand Co-location services or establish new Co-location sites.³⁴ Some providers expect to continue investing in existing exchanges or facilities to support ongoing services, but this does not indicate material expansion of alternative Co-location or interconnection arrangements.
- 4.43 To help address these information gaps, we invite submissions, supported by evidence where possible, on prices, contractual terms, switching, planned investment and other developments that may affect the availability or effectiveness of alternative accommodation or network-specific interconnection.

Whether physical accommodation should be treated separately

- 4.44 The evidence indicates that physical accommodation and network-specific interconnection are distinct functions and may be provided through separate arrangements. For example, in some hosted arrangements, an access seeker may obtain physical accommodation from the facility owner and separately obtain a tie cable, handover connection or other network-specific interconnection involving the relevant LFC. Similar arrangements may be possible at data centres or other third-party facilities.
- 4.45 These arrangements indicate that, in some circumstances, an access seeker may obtain physical accommodation from another provider or avoid locating equipment at the POI through a tail or other remote handoff arrangement. However, the access seeker continues to require network-specific interconnection where it needs to access the relevant LFC network.

³⁴ Provider responses to Commission issued RFIs – Attachment A.

- 4.46 This raises the possibility of deregulating physical accommodation while retaining regulation of network-specific interconnection. Separate treatment would require evidence that physical accommodation is subject to sufficient competitive constraint across a clearly defined group of areas or facilities that could be partially deregulated, and a clear and stable boundary between the two functions that could be applied consistently across different providers and POI arrangements.
- 4.47 Although the two functions can be distinguished conceptually, the information available does not establish that a consistent regulatory boundary can be applied in practice. The way associated inputs – such as tie cables, patching, handover connections, internal cabling and facility services – are packaged and supplied may differ across hosted, shared and provider-owned arrangements. Differences in the way these inputs are packaged and supplied do not, by themselves, prevent a functional boundary from being drawn. The relevant question is whether the products, revenues, costs and assets associated with physical accommodation can be defined and treated separately from network-specific interconnection on a clear, stable and consistently applicable basis.
- 4.48 The evidence also does not establish that alternative physical accommodation, or arrangements that avoid the need for accommodation at the POI, are practically available across a clearly defined group of non-Chorus LFC areas or relevant POIs that could partially be deregulated. The evidence is also insufficient to determine whether provider-, geographic- or facility-specific deregulation would be workable.
- 4.49 We therefore do not consider that the current evidence supports partial deregulation of physical accommodation at this time. This is not a finding that alternative physical accommodation is unavailable or that the two functions cannot be separately supplied. Rather, the evidence does not establish both:
- 4.49.1 sufficiently effective and consistently available alternatives to physical accommodation across a clearly defined group of areas or facilities that could be partially deregulated; and
 - 4.49.2 a sufficiently clear and stable boundary for separate regulatory treatment.
- 4.50 We invite submissions on whether a clear and consistently applicable boundary can be defined, and how the two functions are supplied in practice. In particular, we seek:
- 4.50.1 examples of the two functions being purchased and priced separately;
 - 4.50.2 product descriptions and contractual terms showing how tie cables, patching, internal cabling, handover connections and facility services are treated;

- 4.50.3 evidence on whether revenues, costs and assets associated with each function can be separately identified or reliably allocated;
- 4.50.4 evidence that a proposed boundary could be applied consistently across hosted, shared and LFC-owned facilities;
- 4.50.5 evidence on the availability, price, capacity, quality and switching costs of alternative accommodation at relevant POIs; and
- 4.50.6 views on whether any partial deregulation should apply across all non-Chorus LFC areas, by provider, by geographic area or by facility.

Enabling input assessment

- 4.51 Co-location and interconnection services are also enabling inputs for other fibre services, particularly Transport and Bitstream access.
- 4.52 As discussed in Chapter 3, an alternative Transport provider can constrain the regulated Transport provider only where traffic can practically be handed between the networks and the alternative provider can carry and deliver that traffic to a handover point the access seeker can use.
- 4.53 Co-location and interconnection services may enable the practical handoff needed for alternative Transport providers to receive traffic from the LFC network. Where practical handoff or interconnection is unavailable, alternative providers may be unable to receive that traffic and constrain the regulated provider.
- 4.54 Co-location and interconnection may also enable access seekers to use other fibre services, including Bitstream access. While the technical architecture may differ by service, access seekers still require a practical mechanism to connect to the LFC network and receive traffic in order to supply downstream services to end-users.
- 4.55 The importance of Co-location and interconnection as enabling inputs reinforces the structural dependence identified above. Competition in related services may depend on access seekers and alternative providers being able to obtain practical handoff or interconnection with the relevant fibre network. The factual and counterfactual assessment below separately considers what ID regulation does to address the consequences of that dependence.
- 4.56 The treatment of Co-location and interconnection information in the Transport assessment is explained in Attachment D.

Alignment with the purpose in sections 162 and 166(2)(b)

- 4.57 We now consider whether Co-location and interconnection services should no longer be regulated, having regard to whether our recommendation best gives, or is likely to best give, effect to the purpose in s 162 and the promotion of workable competition in telecommunications markets for the long-term benefit of end-users under s 166(2)(b).
- 4.58 We compare the factual, being the future state with existing regulation, with the counterfactual, being the future state without regulation, and consider which best gives, or is likely to best give, effect to the purpose in s 162 and the promotion of workable competition in telecommunications markets for the long-term benefit of end-users under s 166(2)(b).
- 4.59 We consider s 166(2)(b) relevant for Co-location and interconnection services. These services can affect competition in related telecommunications markets, including Transport and Bitstream access and the downstream services supplied using those inputs. If access seekers cannot obtain practical interconnection or handoff, they may be unable to access the LFC network and supply services to end-users. The price and terms of interconnection may also affect access seekers' costs and their ability to compete in related telecommunications markets.
- 4.60 On the current evidence, alternative physical accommodation may exist in some cases, but this does not remove the need for interconnection with the relevant LFC network. We have not identified evidence that technical or commercial developments are likely, within the period relevant to this review, to remove the need for an interconnection arrangement involving the relevant LFC. We invite evidence on any expected developments that could materially change this position.

Existing regulation

- 4.61 Enable, Northpower and Tuatahi, and Chorus when supplying these services in non-Chorus LFC areas, are subject to ID regulation. The services within the scope of this review are not subject to PQ regulation.
- 4.62 Under ID regulation, providers disclose service-level information, either publicly or to the Commission where the information is commercially sensitive. For Co-location and interconnection services, we require the disclosure of pricing, contractual terms, and demand information at a product level. Certain other information (such as assets and expenditure) is broken down by categories that are closely linked to Co-location and interconnection services (eg, network building assets).

- 4.63 Co-location and interconnection services are also included in financial, asset management and quality information disclosed at the regulated business level. This provides the Commission and the public with information to monitor the regulated business's performance over time and, where appropriate, relative to other regulated providers.
- 4.64 The principal benefit of ID regulation is that information is available to assess whether outcomes are consistent with the purpose of Part 6. ID supports transparency, monitoring and regulatory scrutiny. Through its analysis, reporting and publication of key findings, the Commission helps stakeholders assess whether providers are delivering outcomes consistent with the purpose of Part 6.
- 4.65 ID does not directly set individual Co-location or interconnection prices, prescribe interconnection terms, or necessarily require a provider to supply a particular interconnection arrangement. Any separate supply, access or non-discrimination obligation should be identified separately.

Factual assessment: future state with existing regulation

- 4.66 Under the factual, Co-location and interconnection services in non-Chorus LFC areas would continue to be subject to ID regulation under Part 6.
- 4.67 ID regulation would continue to provide public and regulatory transparency and support monitoring of these services. It does not directly control individual prices or interconnection terms, or itself guarantee access seekers a particular interconnection arrangement. Based on the information available, we do not expect competitive conditions to change materially in the near term.
- 4.68 Continued ID regulation would promote the s 162 outcomes by preserving transparency and enabling the Commission and other stakeholders to monitor whether providers' conduct and overall financial performance are consistent with outcomes produced in workably competitive markets. Disclosure and regulatory scrutiny may discourage the exercise of market power through prices or terms above workably competitive levels and help the Commission assess whether providers are earning excessive profits across regulated FFLAS, to the extent permitted by the information disclosed.
- 4.69 Continued ID regulation is also consistent with s 166(2)(b) because transparency and regulatory scrutiny apply to an enabling input needed by access seekers to use Transport and Bitstream access services and supply downstream services to end-users. The relevant concern is that prices or terms above workably competitive levels could increase access seekers' costs and affect competition in related telecommunications markets, rather than that ID itself guarantees access to interconnection.

Counterfactual assessment: future state without regulation

- 4.70 Under the counterfactual, Co-location and interconnection services supplied in non-Chorus LFC areas would no longer be subject to ID regulation under Part 6.

- 4.71 Deregulation may provide some benefits, including reduced disclosure and reporting obligations and some additional commercial flexibility. However, we consider these benefits are likely to be limited on the current evidence.
- 4.72 Enable, Northpower and Tuatahi, and Chorus when supplying these services in non-Chorus LFC areas are subject to ID regulation but not PQ regulation. Deregulation would therefore not materially increase their pricing flexibility. Any benefit for these providers would mainly relate to reduced disclosure or reporting obligations.
- 4.73 Potential costs or risks from deregulation include:
- 4.73.1 reduced transparency regarding the pricing, contractual terms, demand and availability of Co-location and interconnection services, to the extent that this information is currently disclosed;
 - 4.73.2 reduced ability for the Commission and other stakeholders to monitor and scrutinise providers' performance and assess whether outcomes remain consistent with the purpose of Part 6;
 - 4.73.3 reduced visibility of the prices and terms of network-specific interconnection, where an access seeker has no alternative source of the interconnection needed to use services supplied over the relevant LFC network; and
 - 4.73.4 potential effects on competition in related Transport, Bitstream and downstream telecommunications markets if interconnection prices or terms materially increase access seekers' costs.
- 4.74 We have not undertaken a detailed assessment of current prices, contractual terms or other provider conduct for Co-location and interconnection services. We therefore do not conclude that deregulation would necessarily lead to higher prices, poorer terms or a refusal of access. Equally, we have no evidence that deregulation would promote greater investment or innovation, improve service quality, or result in lower prices.
- 4.75 Deregulation would remove the information currently disclosed under ID about pricing, contractual terms and demand at a product level, together with related regulated business information on financial performance, assets and quality, and reduce the ability of the Commission and other stakeholders to monitor whether outcomes remain consistent with the purpose of Part 6. This reduction in transparency would occur where no alternative source of network-specific interconnection has been identified.
- 4.76 Deregulation may also create implementation costs, including costs of developing and maintaining cost allocation models where Co-location and interconnection services share assets, systems, common costs or operational processes with remaining regulated FFLAS.

- 4.77 We do not rely on cost allocation complexity as the primary basis for our draft recommendation. Our primary reasons for recommending continued regulation are that:
- 4.77.1 no alternative source has been identified for network-specific interconnection where an access seeker needs to use services supplied over the relevant LFC network; and
 - 4.77.2 for physical accommodation, the evidence does not establish both sufficiently effective alternatives across a clearly defined group of areas or facilities that could be partially deregulated and a clear and stable boundary for separate deregulation.
- 4.78 Potential implementation and costs of developing cost allocation models may further reduce the likely net benefits of deregulation.
- 4.79 Overall, we consider that the likely benefits of deregulation are limited and do not outweigh the benefits of retaining ID transparency and monitoring where use of services supplied over the relevant LFC network continues to depend on network-specific interconnection involving that LFC. On the current evidence, deregulation would reduce transparency and regulatory oversight, and there is no clear evidence that it would promote competition, efficiency, investment, innovation, improved service quality or lower prices.

Overall assessment of the regulatory state that best gives effect to sections 162 and 166(2)(b)

- 4.80 Overall, our view is that continued ID regulation of Co-location and interconnection services would best give, or be likely to best give, effect to ss 162 and 166(2)(b).
- 4.81 For network-specific interconnection, the evidence does not identify an arrangement that allows an access seeker to use services supplied over the relevant LFC network without interconnection involving that LFC. The evidence therefore does not demonstrate sufficient competitive constraint in network-specific interconnection to support deregulation.
- 4.82 Physical accommodation is different. It may be obtained from another provider or avoided in some circumstances. The absence of a substitute for network-specific interconnection does not, by itself, justify continued regulation of physical accommodation. Our draft view against partial deregulation of physical accommodation rests on the current evidence not establishing both sufficiently effective and consistently available alternatives across a clearly defined group of areas or facilities that could be partially deregulated and a clear and stable regulatory boundary between physical accommodation, network-specific interconnection and associated inputs.

- 4.83 Hosted LFC arrangements explain why this service was considered for review, but they do not change our conclusion on network-specific interconnection. They may reduce the hosted LFC's control over physical accommodation and could support separate deregulation of physical accommodation if effective competitive alternatives and a workable regulatory boundary are demonstrated. They do not, however, remove the need for interconnection involving the hosted LFC where an access seeker needs to use services supplied over that LFC's network. As an enabling input, network-specific interconnection remains important to the effectiveness of competitive constraint in related wholesale services.
- 4.84 We therefore consider that continued ID regulation under Part 6 best gives, or is likely to best give, effect to ss 162 and 166(2)(b).

Draft recommendation

- 4.85 For the reasons outlined in this draft report, our draft view is that Co-location and interconnection services in non-Chorus LFC areas should continue to be subject to ID regulation under Part 6 of the Act.
- 4.86 Accordingly, our draft recommendation is not to deregulate Co-location and interconnection services at this time.

Attachment A Requests for information

- A1 In August 2025, we issued statutory and voluntary RFIs necessary to enable us to carry out deregulation reviews and to assess whether sufficient competition exists for specified fibre services.
- A2 The statutory notices were issued under section 98 of the Commerce Act 1986 to fibre providers that own or operate a fibre network capable of delivering Point-to-point, Transport, and Co-location and interconnection services.
- A3 We sent statutory notices to:
- A3.1 regulated fibre providers – Chorus, Enable Networks, Northpower Fibre, and Tuatahi First Fibre; and
- A3.2 other fibre providers identified as owning substantial fibre infrastructure - One New Zealand Group, Spark New Zealand, Voyage Digital (NZ) Ltd t/a 2degrees, Vector Fibre, and Vital.
- A4 We requested the following information:

Type of information	Information to inform the Commission
Transport services	- The location of each Fibre Node, meaning one or more of the following within a fibre network (even if not owned by the Fibre Provider): - an Exchange or a Central office. - a Point of Aggregation (POA). - a Point of Interconnection, including Specified POI (SPOI). - A network schematic or map showing Transport Links between the Fibre Nodes. - The Transport services available at each Fibre Node. - Ownership of Transport Links, including: - Self-owned vs leased. - Alternative providers known to have presence at each Fibre Node. - Pricing of Transport services, including factors considered for pricing. - Network expansion plans.

Point-to-point services

- The Coverage area of each Fibre Node, with Fibre Node meaning one or more of the following within a fibre network (even if not owned by the Fibre Provider):
 - an Exchange or a Central office.
 - a POA.
 - a POI including SPOI.
- A network schematic or map showing each Fibre Node and its associated network.
- Point-to-point services available at each Fibre Node.
- The number of Point-to-point connections at each Fibre Node; alternative providers known to have presence in the Coverage area.
- Pricing of Point-to-point services; factors considered for pricing.
- Churn rate of Point-to-point services.
- Network expansion plans.

Co-location and interconnection services

- Ownership of Co-location facilities.
- Number of third parties co-locating at the facility.
- Expansion plans.

A5 We sent voluntary RFIs for geospatial data and details of physical assets owned or leased by relevant fibre providers to deliver Transport and Point-to-point services. We received responses from EA Networks, Network Tasman and Powerco.

Attachment B Approach to assessing the level of infrastructure-based competition

- B1 In this Attachment, we set out our proposed approach to assessing the level of infrastructure-based competition relevant to support consideration of deregulation of fibre access services.
- B2 There is no single universally accepted threshold for sufficient competitive constraint in infrastructure markets. Accordingly, our assessment is grounded in first principles competition analysis and informed by relevant domestic and international developments.
- B3 To do this we:
- B3.1 outline the key first principles relevant to assessing infrastructure competition in wholesale fibre access markets;
 - B3.2 set out our view that the basis for assessing sufficient competitive constraint in this review is the presence of at least two sufficiently competitive fibre networks in addition to the regulated incumbent (LFC ≥ 2), and the reasons for this view;³⁵
 - B3.3 assess the alternative analytical benchmark – the presence of at least one sufficiently competitive fibre network in the relevant market in addition to the regulated incumbent (LFC ≥ 1); and
 - B3.4 conclude by confirming our view that LFC ≥ 2 is the appropriate infrastructure-based analytical framework to apply for the purposes of this review and provide our reasons for that conclusion.
- B4 Our draft recommendations for each service are not based on a mechanistic application of this benchmark. The presence of the specified number of competing networks does not, by itself, determine whether there is sufficient competitive constraint to support deregulation. We also consider the scale and capability of the competing providers, the prevalence and effectiveness of the resulting competitive constraints, and the wider evidence of market outcomes. However, we consider this approach is a useful analytical tool for identifying:
- B4.1 the sufficiency of available alternatives to regulated services; and
 - B4.2 the effectiveness of competitive constraints on regulated providers.

³⁵ In addition, we consider the coverage or prevalence of competition (LFC and number of competitors) within an area. See Chapters 2 on Point-to-point and Chapter 3 and 4 on Transport, and Co-location and Interconnection services.

Features of the FFLAS market

The regulated service and how it is used

- B5 FFLAS are wholesale fibre inputs that access seekers rely on to deliver downstream services. They are valued for their high-performance characteristics – capacity, low latency, resilience and predictable quality – that downstream users cannot readily obtain elsewhere.
- B6 Rather than the core fibre access service that provides a fibre connection to a wide range of residential or institutional end-user premises, the services we are considering in this review are either:
- B6.1 supporting inputs used in delivering access services (Co-location and Transport); or
 - B6.2 a dedicated fibre service used to provide high-performance telecommunications services to institutional end-users (Point-to-point).

Alternatives and the relevant market

- B7 There are no alternative technologies that share fibre's high-performance characteristics and are widely available as substitutes for the services in this review.
- B8 Current evidence shows 5G and LEO satellites are mainly used for backhaul or private networks and are not yet close substitutes for the high-capacity services under review.
- B9 The relevant markets are therefore confined to fibre-based supply.

Market structure, pricing, switching, and entry

- B10 The markets for Point-to-point, Transport and Co-location and interconnection FFLAS are characterised by high barriers to entry and expansion, including the sunk costs of fibre deployment and limited commercial incentives for widespread network overbuild.
- B11 These barriers may be particularly high given the absence of regulated access to passive infrastructure, such as ducts, in New Zealand. However, in some areas these barriers may be overcome where an entrant or competitor has access to existing passive infrastructure. For example, an entrant or competitor may already own or have access to ducts or poles used to deliver other services, such as Vector's infrastructure in Auckland or infrastructure owned by an electricity distribution business.

- B12 Competition is geographically localised and depends on the presence of alternative networks at a route, POI Area or site level, rather than occurring uniformly at a regional or national level.
- B13 Switching frictions and network dependencies can limit the practical ability of end-users to switch between providers.
- B14 Taken together, these features mean that competition is likely to be primarily determined by the number and capability of existing networks, rather than by the threat of new entry. Relevant capability includes whether a provider has sufficient scale, coverage and capacity to materially influence competition and market outcomes.
- B15 These structural characteristics shape firm behaviour in the market. Where only one competing network is present (in addition to the LFC) in the relevant market, even if that competitor has sufficient scale and capability, the competitive outcomes are likely to reflect at best duopolistic dynamics, including accommodation and targeted competition focused on specific customers or routes. In these circumstances, competition is often negotiated and customer-specific, likely with stronger outcomes for larger and more sophisticated buyers that have some level of countervailing power.
- B16 In contrast, where multiple competing networks are present and the providers operating them have sufficient scale and capability, competition is more likely to be broader and sustained, extending across a wider range of customers and services and encompassing both price and non-price dimensions.

Proposed approach: regulated incumbent plus at least two competitors – LFC + ≥2

- B17 In terms of market structure and concentration, we consider that the presence of at least two competing networks, with sufficient scale and capability, in addition to the regulated incumbent (Local Fibre Company) (LFC + ≥2), within a relevant geographic area, is more likely to produce outcomes consistent with those in workably competitive markets. The benchmark is not determinative and is considered alongside the other available evidence about the effectiveness of competitive constraints and market outcomes.

Role of buyer power and tendering

- B18 The presence of at least two competing providers (in addition to the LFC), where those providers have sufficient scale and capability, enhances the effectiveness of countervailing buyer power, including through RSP and enterprise procurement processes.

- B19 In particular, customers are more likely to be able to:
- B19.1 conduct multi-party tendering processes;
 - B19.2 benchmark prices and service offerings across providers; and
 - B19.3 avoid dependence on a single alternative provider.
- B20 This improves competitive outcomes across both large and smaller customers, reducing the risk that competitive benefits are confined to larger customers that have a degree of countervailing power (such as large RSPs).

Durability of competition

- B21 An LFC ≥ 2 market structure provides a more durable and resilient form of competition than LFC ≥ 1 , which is particularly important in a deregulated environment.
- B22 The presence of at least three providers with sufficient scale and capability likely reduces the risk that competitive constraints weaken materially due to:
- B22.1 FFLAS providers' changes in commercial strategy;
 - B22.2 their capacity limitations; or
 - B22.3 consolidation or repositioning by one provider.

Consistency with developments and evidence

- B23 Our proposed approach is consistent with domestic and international developments, that generally find that competition is materially stronger in markets with at least two competitors to the incumbent. The competitive significance of those providers will depend on factors including their scale and capability.

Domestic examples

- B24 When consulting on the original decision to impose regulation under Part 6 of the Act, Ministry of Business, Innovation and Employment, NZ (**MBIE**) considered that ID regulation was appropriate in situations where the incumbent provider faced only limited competition from a single alternative provider.³⁶

³⁶ Ministry of Business, Innovation, and Employment "[Exposure draft of regulations to be made under section 226 of the Telecommunications Act 2001](#)" (June 2019), para 16.

- B25 During the Commission’s unbundled copper local loop (**UCLL**) backhaul review in 2008, the Commission considered that where Telecom faced only one other fibre-based competitor this may suggest that competition is limited on that route. However, we noted that market concentration is only one factor relevant to assessing the level of competition.³⁷

International examples

- B26 In its 2019 Domestic Transmission Capacity Service review, the Australian Competition and Consumer Commission (**ACCC**) decided to retain the key elements of its criteria-based approach adopted in the 2014 inquiry. It identified routes for deregulation on the basis of there being a minimum of three fibre providers (that is, Telstra plus two other transmission providers) present at, or within close proximity to, a Telstra exchange.³⁸
- B27 In its 2024 draft review of the Wholesale Dedicated Capacity Market, Ireland’s Commission for Communications Regulation (**Comreg**) said that where a Wholesale Pricing Zone (**WPZ**) had two or more competing networks (in addition to the incumbent Eircom) it was likely to have sufficiently different competitive conditions (where the competitive constraint becomes strong enough to affect the incumbent) compared with zones with only one or no network present.³⁹
- B28 The report noted a number of other instances where regulators had regard to the number of competitors:
- B28.1 The UK Office of Communications (**Ofcom**) considered two or more competitors to the incumbent BT at an exchange sufficient to result in material market share decline for BT. Exchanges with only one competitor to BT were included in the same market as monopoly exchanges, as Ofcom found the competitive conditions to be broadly similar to the monopoly position.
- B28.2 The Dutch National Regulatory Authority found that competition is unlikely to be effective with only two companies, and although there is no ‘magic minimum number’ of companies, the social optimal is a market with more than two companies.

³⁷ Commerce Commission “[Standard Terms Determination for the designated service Telecom’s unbundled copper local loop network backhaul \(telephone exchange to interconnect point\) Decision 626](#)” (27 June 2008).

³⁸ Australian Competition and Consumer Commission “[DTCS Declaration review - final report](#)” (April 2019).

³⁹ ComReg “[Market Review - Wholesale Dedicated Capacity \(WDC\) Market - Consultation and Draft Decision](#)” (27 November 2024).

Alternative: regulated incumbent plus one competitor –LFC +≥1

- B29 We have also considered a lower analytical benchmark, under which the presence of a single competing network, in addition to the LFC (LFC +≥1), may provide some evidence of competitive constraint.

Potential sources of constraint

- B30 A LFC +≥1 market structure may provide some degree of competitive constraint, particularly where:
- B30.1 customers are large and sophisticated, and procure services through structured tendering or negotiation processes;
 - B30.2 there is countervailing buyer power, including from MNOs and large enterprise customers;
 - B30.3 the competing network has sufficient coverage, capacity, and capability to act as a credible alternative across a significant proportion of demand; and
 - B30.4 there is some degree of potential competition from new entrants or from existing providers extending their networks.
- B31 These considerations also apply when assessing the competitive significance of providers under the LFC +≥2 benchmark. The presence of two competing providers may not materially improve competitive outcomes if one or both lack sufficient scale or capability.
- B32 In these circumstances, tendering processes may create periodic competitive pressure at the time the tenders occur, and the presence of an alternative network may constrain pricing to some extent.

Limitations of LFC +≥1

- B33 Notwithstanding these factors, we consider that a LFC +≥1 market structure is likely to result in limited and fragile competitive constraint compared with a LFC +≥2 market structure.
- B34 Duopoly markets are likely to be more susceptible to tacit coordination and strategic accommodation than a market with three or more providers, reducing incentives for aggressive competition.

- B35 The effectiveness of competitive constraint depends heavily on the behaviour and capability of a single competitor, making outcomes sensitive to changes in commercial strategy or capacity.
- B36 Countervailing buyer power is likely to be unevenly distributed, with smaller customers facing weaker competitive constraints.

Likely outcomes under LFC ≥ 1

- B37 If deregulation were implemented at a LFC ≥ 1 analytical benchmark, we consider that outcomes would likely reflect duopolistic market conditions, including:
- B37.1 prices that are constrained to some extent, but remain above workably competitive levels;
 - B37.2 limited incentives for widespread price undercutting or innovation;
 - B37.3 greater reliance on bilateral negotiation and price discrimination; and
 - B37.4 variation in outcomes across services and customer segments.
- B38 We consider that a market with two providers (i.e. LFC ≥ 1) will be highly concentrated, and that such a market structure is unlikely to be consistent with workable competition.

Conclusion: application of the LFC ≥ 2 benchmark

- B39 Having considered both analytical benchmarks, we conclude that the presence of at least two competing infrastructure providers, in addition to the LFC (LFC ≥ 2), is a strong infrastructure-based benchmark to support a finding of workable competition. We apply the benchmark alongside the other available evidence about the scale and capability of competing providers, the effectiveness of competitive constraints and market outcomes.
- B40 This conclusion reflects:
- B40.1 the structural characteristics of fibre markets, including high barriers to entry;
 - B40.2 that precedent suggests a view of a material change in competitive dynamics associated with the introduction of a third provider;
 - B40.3 the enhanced effectiveness of buyer power and tendering processes in a three or more provider environment; and
 - B40.4 the greater durability and resilience of competition over time.

- B41 In contrast, a LFC ≥ 1 market structure would rely on fragile and contingent sources of constraint, including the behaviour of a single competitor and the presence of buyer power, and would be more exposed to the risks of coordinated outcomes.
- B42 A market structure more likely to support workable competition is one with a level of competition that is not dependent on a single provider, which supports credible multi-party procurement processes, and delivers a durable and resilient competitive constraint on prices and service quality over time.
- B43 Accordingly, we apply a LFC ≥ 2 sufficiently competitive benchmark as the relevant workable competition approach throughout this review.

Attachment C Approach and methodology for Point-to-point services

Purpose and structure

- C1 This section sets out the approach and methodology we applied to assess the extent of physical, Layer 1 competition for Point-to-point services in the areas under review. It explains the analytical framework we used, the data sources relied upon, and the assumptions underpinning our assessment.
- C2 This section is structured as follows:
 - C2.1 sets out our approach and rationale;
 - C2.2 outlines the data inputs;
 - C2.3 describes our geospatial methodology; and
 - C2.4 outlines our tabular and interpretative analysis.

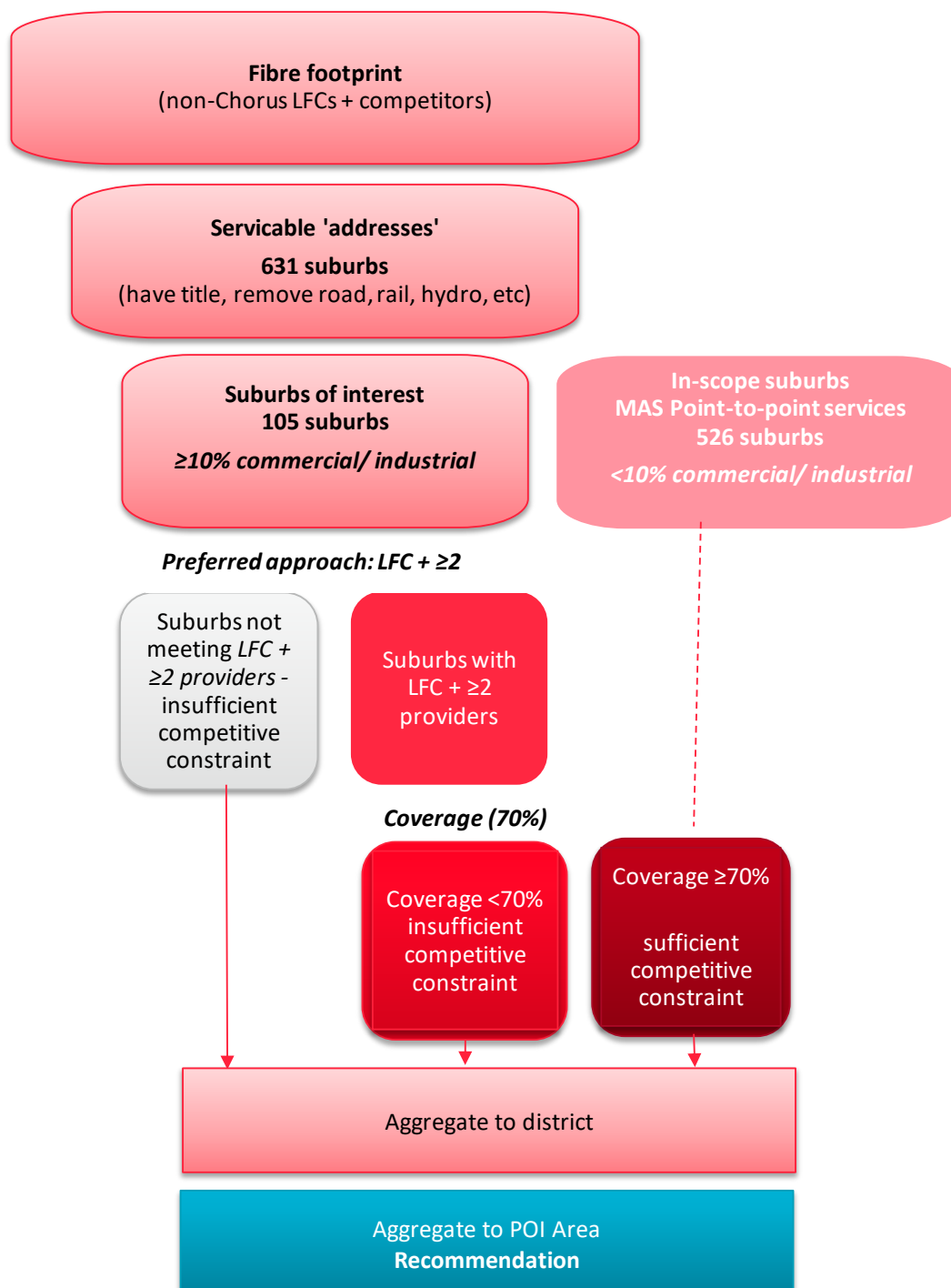
Our approach to assessing physical infrastructure competition

- C3 Our approach to assessing infrastructure level competition for Point-to-point FFLAS was to identify the physical fibre access networks capable of supplying wholesale point-to-point services. We then analysed the proportion of properties that had access to these networks in any given geographic area using a GIS map and tabular analysis.
- C4 We adopted a geospatial evidence-based approach because the key competition questions were inherently geographic. Physical access network presence determines the footprint where a provider could supply Point-to-point services.
- C5 This approach enabled consistent analysis across diverse non-Chorus LFC areas and provided a replicable screening tool for identifying geospatial areas that required deeper competition assessment.
- C6 We also considered that LFCs can generally supply Point-to-point services anywhere their access network is present, and that other fibre providers may supply services along the accessible portions of their networks except where the routes are solely for Transport. This justified an approach centred on mapping physical corridors rather than relying on service-availability claims.

Overview of analytical approach

C7 The figure below provides a high-level overview of our analytical approach to assessing infrastructure level competition for Point-to-point services.

Figure C1 Assessing infrastructure level competition for Point-to-point services



- C8 As we noted in paragraph 2.50, we took an expanded approach to the geographic scope for assessing competition specifically for MAS Point-to-point connectivity. We assessed all 631 suburbs because demand for MAS could exist anywhere in the regulated footprint, not just in areas with a material percentage of commercial or industrial addresses.

Data inputs

- C9 Our analysis was based on the following data sources:
- C9.1 the 2025 SFA map that shows the access fibre footprint for regulated providers;⁴⁰
 - C9.2 provider-supplied access fibre footprint or access fibre route files and other provider information (near or at 14 October 2025), to estimate the fibre footprint for non-regulated providers;
 - C9.3 Statistics New Zealand (**StatsNZ**) output and administrative geographies and sets of statistical area boundaries (2023);⁴¹ and
 - C9.4 National District Valuation Roll (**DVR**) from Land Information New Zealand (**LINZ**).⁴²
- C10 While reasonable efforts were made to ensure accuracy and consistency, the data may be subject to limitations in coverage, timing and provider reporting.
- C11 The analysis uses a range of geographic units at increasing levels of aggregation, as summarised in the table below.

Table C1 Geographic levels

<i>Geographic level</i>	<i>Name used in this report</i>	<i>Source</i>	<i>Role in analysis</i>
<i>Parcel</i>	Land parcel	LINZ	Base unit of analysis
<i>Statistical Area 1 (SA1)</i>	SA1	StatsNZ	Identify in scope addresses

⁴⁰ Commerce Commission “Map of specified fibre areas” <https://www.comcom.govt.nz/regulated-industries/telecommunications/regulated-services/consumer-protections-for-copper-withdrawal/map-of-specified-fibre-areas/>

⁴¹ For an overview of StatsNZ’s geographical hierarchy, see: <https://www.stats.govt.nz/methods/geographic-hierarchy/>.

⁴² LINZ “[NZ Properties: National District Valuation Roll](#)”

<i>Geographic level</i>	<i>Name used in this report</i>	<i>Source</i>	<i>Role in analysis</i>
<i>Statistical Area 2 (SA2)</i>	Suburb	StatsNZ	Assess provider coverage at suburb level
<i>Territorial Authority (TA)</i>	District	StatsNZ	Assess provider coverage at (administrative) district level
<i>Point of interconnection (POI) Area</i>	POI Area	Commerce Commission	Assess infrastructure level competition for deregulation

Geospatial methodology

- C12 We used the Commission’s SFA map as the foundation for our analysis of the regulated providers’ fibre footprints.
- C12.1 We counted the total number of SFA land parcels with titles in each SA1 geography. Land parcels with titles provided us with a reasonable proxy for ‘addresses’.
- C12.2 We included addresses in SA1s where non-Chorus LFCs have any SFA footprint. This includes SA1s where Chorus also has a SFA footprint (eg, where multiple LFCs operate in the same area).
- C12.3 We excluded SA1s where only Chorus had an SFA footprint and where there was no SFA.
- C12.4 We included SA1 areas where the ratio of addresses to total parcels is at least 75% within the SFA footprint.
- C13 We identified the fibre footprint of available non-regulated fibre providers using fibre footprint or access route data provided in response to the RFI.
- C14 We used LINZ data to exclude road, hydro and railway parcels. We also excluded parcels for which a statutory intent was recorded (eg, formal planning, zoning, acquisition or legal processes). This is because statutory intentions are mainly against government-owned land.

- C15 Where a provider supplied access route data instead of fibre footprint data, we determined whether a land parcel could reasonably be served by a non-regulated provider's point-to-point service, by applying proximity criteria consistent with the Commission's previous fibre methodologies. Land parcels were deemed serviceable if they were adjacent to a road containing a fibre route or within approximately 50 metres of such a corridor,⁴³ provided no intersecting road, railway or similar constraints broke the corridor.
- C16 We overlaid the access network files, applying a 50 metre buffer for both these providers and Chorus, onto this land parcel-level layer.
- C17 This enabled us to determine the land parcels that had access to physical fibre networks capable of supplying regulated wholesale Point-to-point services.
- C18 Using spatial joins, we assigned a binary coverage indicator to each land parcel for each provider's network (ie, 1 = coverage, 0 = no coverage). This identified, for each land parcel with a title (address proxy), the regulated provider or providers, and non-regulated providers that had physical fibre networks capable of supplying wholesale Point-to-point services to an end-user at that land parcel.

Screening tools

- C19 We developed two tools from the above analysis:
- C19.1 a GIS map that integrates land parcel-level serviceability results with fibre network data and geographic boundaries (including suburb, district and POI). This map provides a visual representation of the binary coverage indicators and enables spatial interpretation of potential infrastructure-level competition; and
 - C19.2 an associated parcel-level dataset from which we created a tabular output with all land parcels, for analysis in Excel.
- C20 Together, these outputs formed our screening tools for identifying areas where infrastructure-level competition may be sufficient to support deregulation.

⁴³ In ComReg's WDC market consultation, it proposed to use a distance criterion of 50 metres as a reasonable rule for how close a competitor needs to be in order for a network extension to be economically viable. See: ComReg "[Market Review - Wholesale Dedicated Capacity \(WDC\) Market - Consultation and Draft Decision](#)" (27 November 2024), paragraphs 4.87-4.93.

Tabular analysis and interpretation

Geographic boundaries

- C21 We filtered the tabular output to include all in scope addresses per the analysis outlined above. The tabular output was aggregated to suburb level within city or district council areas (districts), to enable analysis across different geographic boundaries.
- C22 We aggregated land parcels to suburb SA2 level because SA2s are named in StatsNZ data and therefore easily understood, as are districts. In comparison, statistical geographies lower in the StatsNZ hierarchy (SA1 and meshblocks) are represented by numeric codes and less meaningful for interpretation.⁴⁴
- C23 We then mapped the districts to POI Areas to assess whether there was sufficient infrastructure level competition to support deregulation.
- C24 While some districts may span more than one POI Area, we mapped each district to a single POI Area for simplicity and to maintain a proportionate approach. We found that adopting a more granular mapping approach would not have changed our draft recommendation.
- C25 Aggregation to POI Areas aligns the analysis with the underlying network topology and competitive conditions, rather than administrative boundaries, which would result in more meaningful deregulation decisions.

Suburbs of interest

- C26 We identified commercial and industrial addresses using property-use information from LINZ DVR data, which is maintained by local councils.⁴⁵ This allowed us to focus on suburbs with a higher percentage of commercial or industrial addresses and potential point-to-point users.
- C27 We identified suburbs where 10% or more of addresses are used for commercial or industrial purposes. This accounted for 105 of 631 suburbs on which we focused our analysis.

⁴⁴ A meshblock is the smallest geographic unit for which statistical data is collected and processed by Stats NZ. A meshblock is a defined geographic area, which can vary in size from part of a city block to a large area of rural land. See: <https://datafinder.stats.govt.nz/layer/120980-meshblock-2025/>

⁴⁵ We excluded land parcels classified as “Rural Industry” as we considered rural areas are not often in SFA areas. Where these land parcels appeared in-scope, we found the numbers were immaterial and would not change the draft recommendation in this report.

- C28 There is a long tail below that of 526 suburbs where less than 10% of parcels are commercial or industrial, including 304 where less than 1% are commercial or industrial. This indicates that the vast majority of the addresses are residential where we would not expect that a point-to-point connection would be in demand.
- C29 Starting at 10% commercial and industrial is a conservative view that eliminates the long tail of residential areas, while ensuring we do not miss areas that may be on the edge of broader commercial or industrial areas.

Coverage analytical reference point for competitive constraint

- C30 Our view is that two or more competitors to the regulated incumbent (see Attachment B) in the majority of addresses in a suburb in any given area should be sufficient competitive constraint to consider deregulation.
- C31 We sought to determine an analytical reference point for the number of land parcels in any geographic area that are served by the LFC and one, two or more competitors based on this balance:
- C31.1 The analytical reference point for assessment should be proportionate; recognising that requiring ‘universal competition’ risks sustaining regulation in areas that are otherwise sufficiently competitive.
- C31.2 We need to recognise lower reference points may increase the number of addresses that may lack effective competitive constraint in a deregulated environment. This makes it important to consider price and non-price terms, as well as other non-infrastructure factors, across the entire geography – not only in areas where infrastructure competition exists.
- C32 Any specific percentage is inherently difficult to justify on a consistent evidential basis. To address this, we adopted a two-step assessment approach, applied where the first step results were borderline for some geographic areas.
- C32.1 The first step was to use a pragmatic analytical reference point to the tabular data to generate preliminary results. We tested three reference points within a moderate majority range (70%, 75%, and 80%) and found largely consistent outcomes. We adopted the 70% reference point as an initial filter, as it captured more “near-miss” areas and allowed greater scope for the second, more granular assessment phase, if required.
- C32.2 The second step, applied to borderline suburbs, involved a more detailed assessment using tabular data and GIS mapping. This allowed us to determine whether competitive coverage was concentrated across

commercial or residential addresses, ensuring conclusions reflected the true extent of workable competition within the suburb.

C33 We consider the benchmark for further competitive assessment to be met where at least 70% of land parcels in a given geographic area are served by two or more competitors to the regulated incumbent. We consider this reference point reflects effective coverage within the geography and recognises that:

C33.1 not all land parcels (eg, residential sites) support supply;

C33.2 not all land parcels are economically or technically contestable (eg, low-density, highly dispersed or constrained sites); and network coverage data may be imperfect.

Infrastructure competition metrics

C34 Table C2 provides a suburb-level summary of infrastructure competition metrics for the 105 suburbs of interest that are the focus of our analysis.

Table C2 Infrastructure competition metrics

<i>POI Area</i>	<i>District</i>	<i>Suburb</i>	<i>%Comm and Ind addresses</i>	<i>% Coverage LFC +≥2</i>
<i>Christchurch</i>	Christchurch City	Riccarton Central	87.5%	90.9%
<i>Christchurch</i>	Christchurch City	Christchurch Central	83.0%	79.4%
<i>Hamilton</i>	Hamilton City	Hamilton Central	81.8%	76.2%
<i>Napier / Hastings</i>	Napier City	Hospital Hill	66.7%	83.3%
<i>Rotorua</i>	Rotorua District	Rotorua Central	94.3%	75.0%
<i>Christchurch</i>	Christchurch City	Middleton	83.6%	67.5%
<i>Christchurch</i>	Christchurch City	Hornby Central	76.2%	60.9%
<i>Christchurch</i>	Christchurch City	Northlands (Christchurch City)	71.7%	57.5%
<i>Christchurch</i>	Christchurch City	Tower Junction	88.6%	56.7%
<i>Christchurch</i>	Christchurch City	Christchurch Central-South	60.9%	55.8%
<i>Christchurch</i>	Christchurch City	Sockburn South	74.6%	54.5%
<i>Christchurch</i>	Christchurch City	Christchurch Central West	36.6%	47.7%
<i>Christchurch</i>	Christchurch City	Sydenham Central	91.0%	45.3%
<i>Christchurch</i>	Christchurch City	Burnside West	33.0%	44.1%
<i>Christchurch</i>	Christchurch City	Addington North	67.7%	39.7%
<i>Christchurch</i>	Christchurch City	Lancaster Park	78.7%	35.6%
<i>Christchurch</i>	Christchurch City	Islington-Hornby Industrial	75.7%	20.5%
<i>Christchurch</i>	Christchurch City	Woolston South	62.8%	20.3%
<i>Christchurch</i>	Christchurch City	Bromley North	83.0%	19.1%
<i>Christchurch</i>	Christchurch City	Brookhaven- Ferryhead	13.1%	12.9%

POI Area	District	Suburb	%Comm and Ind addresses	% Coverage LFC +≥2
Christchurch	Christchurch City	Styx	12.8%	1.0%
Christchurch	Christchurch City	Belfast East	10.9%	0.9%
Christchurch	Selwyn District	Rolleston Izone	85.7%	15.0%
Christchurch	Waimakariri District	Kaiapoi Central	14.9%	0.8%
Hamilton	Hamilton City	Kirikiroa	72.9%	68.8%
Hamilton	Hamilton City	Te Rapa South	94.6%	57.8%
Hamilton	Hamilton City	Te Rapa North	91.1%	45.6%
Hamilton	Hamilton City	Frankton Junction	83.5%	43.9%
Hamilton	Hamilton City	Ruakura	13.3%	11.8%
Hamilton	Hamilton City	Hamilton East Village	11.6%	10.5%
Hamilton	Waikato District	Ngaruawahia Central	11.0%	5.2%
Napier / Hastings	Hastings District	Hastings Central	78.9%	33.7%
Napier / Hastings	Hastings District	Tomoana	81.8%	27.3%
Napier / Hastings	Hastings District	Karamu	60.4%	2.8%
Napier / Hastings	Napier City	Napier Central	76.1%	66.6%
Napier / Hastings	Napier City	Onekawa West	94.7%	50.6%
Napier / Hastings	Napier City	Nelson Park	34.5%	41.4%
Napier / Hastings	Napier City	Bluff Hill	44.8%	31.0%
New Plymouth	New Plymouth District	New Plymouth Central	58.8%	32.2%
New Plymouth	New Plymouth District	Waiwhakaiho-Bell Block South	81.2%	10.8%
New Plymouth	South Taranaki District	Eltham	14.1%	0.7%
New Plymouth	South Taranaki District	King Edward Park	16.4%	0.1%
New Plymouth	Stratford District	Stratford Central	20.5%	2.2%
Rotorua	Rotorua District	Kuirau	50.0%	65.4%
Rotorua	Rotorua District	Victoria	11.1%	51.9%
Rotorua	Rotorua District	Fenton Park	75.0%	12.5%
Rotorua	Rotorua District	Ngapuna	84.0%	12.0%
Rotorua	Rotorua District	Mangakakahi Central	95.7%	10.9%
Taupo	Taupo District	Tauhara	88.4%	41.9%
Taupo	Taupo District	Taupo Central West	89.5%	12.4%
Taupo	Taupo District	Mountview	50.0%	10.3%
Tauranga	Tauranga City	Mount Maunganui Central	92.8%	53.5%
Tauranga	Tauranga City	Greerton South	40.6%	35.4%
Tauranga	Tauranga City	Tauranga Central	47.9%	34.1%
Tauranga	Tauranga City	Tauranga Hospital	26.4%	27.3%
Tauranga	Tauranga City	Fraser Cove	24.0%	17.7%
Tauranga	Tauranga City	Baypark-Kairua	66.7%	15.4%
Tauranga	Tauranga City	Tauriko	89.6%	11.1%
Tauranga	Western Bay of Plenty District	Te Puke East	17.2%	4.8%
Whanganui	Whanganui District	Whanganui Central	73.3%	30.7%
Whanganui	Whanganui District	Lower Aramoho	11.0%	0.2%

POI Area	District	Suburb	%Comm and Ind addresses	% Coverage LFC +≥2
Whangarei	Kaipara District	Maungaturoto	10.4%	21.8%
Whangarei	Kaipara District	Mangawhai Rural	20.5%	10.7%
Whangarei	Whangārei District	Whangārei Central	74.5%	16.0%
Whangarei	Whangārei District	Port-Limeburners	91.4%	2.1%
Christchurch	Christchurch City	Marshland	10.0%	
Christchurch	Selwyn District	Newtons Road	12.0%	
Christchurch	Waimakariri District	Rangiora Central	75.4%	
Christchurch	Waimakariri District	Pegasus	50.0%	
Christchurch	Waimakariri District	Southbrook	29.4%	
Hamilton	Matamata-Piako District	Morrinsville West	100.0%	
Hamilton	South Waikato District	Tokoroa Central	49.8%	
Hamilton	South Waikato District	Tirau	15.2%	
Hamilton	South Waikato District	Putaruru	14.3%	
Hamilton	Waikato District	Horotiu	57.4%	
Hamilton	Waikato District	Huntly South	31.8%	
Hamilton	Waipa District	Te Awamutu Central	58.2%	
Hamilton	Waipa District	Cambridge Central	46.4%	
Hamilton	Waipa District	Hautapu	27.0%	
Hamilton	Waipa District	Te Awamutu North	26.9%	
Napier / Hastings	Hastings District	Irongate	86.0%	
Napier / Hastings	Hastings District	Omahu Strip	84.9%	
Napier / Hastings	Hastings District	Twyford	71.4%	
Napier / Hastings	Hastings District	St Leonards	67.6%	
Napier / Hastings	Hastings District	Bridge Pa	66.7%	
Napier / Hastings	Hastings District	Havelock North-Central	52.9%	
Napier / Hastings	Hastings District	Karanema-St Hill	27.3%	
Napier / Hastings	Hastings District	Camberley	21.6%	
Napier / Hastings	Hastings District	Akina Park	14.3%	
Napier / Hastings	Hastings District	Mayfair	12.0%	
Napier / Hastings	Napier City	Ahuriri	69.4%	
Napier / Hastings	Napier City	Taradale Central	64.7%	
Napier / Hastings	Napier City	McLean Park	50.0%	
Napier / Hastings	Napier City	Taradale South	24.2%	
New Plymouth	South Taranaki District	Hawera Central	21.6%	
Rotorua	Rotorua District	Hillcrest (Rotorua District)	40.0%	
Rotorua	Rotorua District	Springfield North	16.2%	
Taupo	Taupo District	Invergarry	100.0%	
Taupo	Taupo District	Waipahihi	100.0%	
Taupo	Taupo District	Centennial	94.6%	
Taupo	Taupo District	Taupo Central East	18.5%	
Whanganui	Whanganui District	Balgownie	80.9%	
Whangarei	Kaipara District	Dargaville	14.8%	

<i>POI Area</i>	<i>District</i>	<i>Suburb</i>	<i>%Comm and Ind addresses</i>	<i>% Coverage LFC +≥2</i>
<i>Whangarei</i>	Kaipara District	Ruawai-Matakohe	14.2%	
<i>Whangarei</i>	Kaipara District	Otamatea (Kaipara District)	10.6%	

Attachment D Transport competition assessment: methodology and results

Purpose

- D1 This Attachment sets out the infrastructure-based approach used in the Transport competition assessment and presents detailed results supporting the analysis in Chapter 3.
- D2 It supports the analysis in Chapter 3 (Transport services) by explaining:
 - D2.1 the data inputs we used;
 - D2.2 how we selected areas for detailed assessment;
 - D2.3 how we assessed each regulated Transport link instance;
 - D2.4 how we distinguished infrastructure presence from usable alternatives;
 - D2.5 how we treated existing and potential alternatives;
 - D2.6 how we aggregated link-level results;
 - D2.7 whether the area-level findings depend materially on using 50% as the analytical reference point; and
 - D2.8 the detailed results for each regulated provider and assessed area.
- D3 Attachment B establishes the competition framework and the LFC ± 2 analytical benchmark applied in this review. Chapter 3 summarises the assessment and explains the reasoning supporting our draft recommendation. This Attachment provides the supporting Transport-specific methodology, detailed results and charts.
- D4 The terms “alternative provider”, “usable alternative” and “alternative path” have the meanings explained in footnote 26 to paragraph 3.2.

Overview of approach

- D5 Our approach tests whether an alternative provider could use its infrastructure and an existing or credibly formable alternative path to supply a usable alternative to the regulated Transport service being assessed.

- D6 We do not treat nearby alternative provider fibre, route overlap, ducts, tails or node coverage as sufficient evidence of a usable alternative on their own. Those factors may indicate that an alternative path is possible, but the evidence must also establish that the alternative provider can practically supply the relevant Transport service.
- D7 Equally, we do not require an alternative provider to replicate the regulated provider's exact route or network architecture. The relevant question is whether the alternative provider can practically receive traffic from the regulated provider's network, carry that traffic and deliver it to a handover point the access seeker can use.

Data inputs

- D8 We used provider supplied information, including:
- D8.1 provider-declared intra-candidate-area Transport links;
 - D8.2 node identifiers and locations;
 - D8.3 fibre network footprint and route information;
 - D8.4 existing and potential Transport services and paths;
 - D8.5 service availability information;
 - D8.6 dark fibre, wavelength, Ethernet and commercial backhaul information where available;
 - D8.7 Co-location and interconnection information;
 - D8.8 capacity information where available; and
 - D8.9 information on planned or approved network expansion where available.
- D9 Co-location and interconnection information was used as an input to the Transport assessment. We used this information to help identify locations where traffic could be handed from the regulated provider's network to an alternative provider's network. The presence of Co-location or interconnection information was not treated as determinative. It was considered alongside other evidence of practical usability, including handoff, connectability, tail or extension feasibility, onward Transport capability, and access-seeker-usable handover.

- D10 The data varies in completeness and provider interpretation. We therefore treated it as suitable for an infrastructure-based assessment of the availability of usable alternatives, while identifying validation points where evidence was incomplete or uncertain. The assessment also considered the coverage, capacity and service capability of alternative providers to the extent supported by the available data.
- D11 Where the available evidence was insufficient to establish that an alternative provider could supply a usable alternative, that provider was not included in the reported LFC ≥ 1 or LFC ≥ 2 results for the relevant link instance. This does not necessarily mean that the possible service or path was technically unavailable.

Area filter

- D12 The first step was an area filter based on provider-declared intra-candidate-area Transport links.
- D13 The purpose of the area filter was to identify areas where detailed link-level analysis was most likely to be informative. The area filter is not a competition finding and does not apply the LFC ≥ 2 benchmark or the 50% analytical reference point.
- D14 We considered both the presence of other providers and the extent of their Transport activity. Some areas showed the regulated provider and at least two other providers in the data, but the other providers' activity was limited to a small number of links and was not sufficient to make detailed link-level assessment useful.
- D15 This check avoided progressing an area solely because three providers appeared in the data. We considered whether the other providers' Transport activity extended beyond isolated links sufficiently to indicate that detailed assessment could identify competitive constraints across a broader set of routes.
- D16 We also progressed some areas for targeted review where the available evidence suggested possible route-specific services or paths, or targeted infrastructure overlap, even if broader area-level activity was limited.
- D17 This allowed us to test whether there were meaningful pockets of potential Transport competition that could be missed by a high-level area screen.
- D18 The primary geographic areas selected for further scrutiny were Auckland, Christchurch, Hamilton, Wellington, New Plymouth and Whangārei.

- D19 We also considered Tauranga, Whanganui, Nelson, Napier/Hastings and Palmerston North for targeted review.
- D20 Areas not progressed at this stage were not assessed as deregulated or uncompetitive. Rather, the available data did not show multi-provider Transport activity extending beyond isolated links to justify detailed link-level assessment for this review.

Unit of analysis

- D21 The unit of analysis is each individual regulated Transport connection, which we refer to as an assessed link instance.
- D22 Separate regulated connections remain separate link instances even where their recorded endpoints are identical. Each link instance contributes once to the denominator for the relevant regulated provider and area.
- D23 For each link instance, we count distinct alternative providers rather than the number of possible paths. Where the same alternative provider has multiple possible paths, that provider counts once towards LFC ≥ 1 or LFC ≥ 2 .

Link-level assessment

- D24 For each regulated Transport link instance, we identified:
- D24.1 the regulated provider under review;
 - D24.2 the relevant Transport link instance;
 - D24.3 possible alternative providers;
 - D24.4 existing alternative services or paths;
 - D24.5 potential or logical alternative paths;
 - D24.6 any evidence of handoff or interconnection;
 - D24.7 any evidence of onward Transport capability; and
 - D24.8 any evidence of a handover point the access seeker could use.
- D25 We distinguished between the provider whose regulated Transport service was being assessed and an alternative provider:
- D25.1 for the regulated provider, the key question was whether traffic could be practically handed out of its network; and

- D25.2 for the alternative provider, the key question was whether it could practically receive that traffic and carry it onward.
- D26 This distinction avoids treating alternative provider infrastructure as establishing a usable alternative where there is no practical way for traffic to move between the networks.
- D27 In applying this test, we considered the practical function of the relevant network location. A location is more likely to support a usable Transport alternative where it supported wholesale handoff, interconnection, operational transfer of traffic or access-seeker handover. By contrast, locations that only appeared to form part of the access network, or where infrastructure was merely nearby, are not generally treated as practical handoff or pickup points unless there is specific evidence that traffic could be handed off there or practically extended to a location where handoff could occur.

Practical usability

- D28 A potential Transport service was treated as a usable alternative only where the evidence supported practical usability.
- D29 Practical usability may include evidence of:
- D29.1 interconnection;
 - D29.2 handover;
 - D29.3 Co-location;
 - D29.4 tie cables;
 - D29.5 jumpering;
 - D29.6 Ethernet handover;
 - D29.7 fibre patching;
 - D29.8 inter-central-office fibre;
 - D29.9 commercial backhaul;
 - D29.10 data centre connectivity;
 - D29.11 feasible tails or extensions;
 - D29.12 a shared or third-party handoff location; or
 - D29.13 another practical handoff arrangement.

- D30 We did not treat a location as usable merely because alternative provider infrastructure was nearby. Where there was no practical handoff or connectability pathway at or from the regulated provider's relevant location, that infrastructure did not establish a usable alternative, even where fibre, route overlap, ducts, tails or other infrastructure were present nearby.
- D31 The alternative provider also needed infrastructure or service capability to carry the traffic onward. This could include existing fibre, lit Transport, dark fibre, wavelength or DWDM capability, Ethernet Transport, commercial backhaul, or a commissioned tail or extension.

Evidence of existing and potential usable alternatives

- D32 Evidence of an existing usable alternative may include a current alternative provider service or path, a lit Transport service, a dark fibre path, a wavelength or Ethernet service or a commercial backhaul service.
- D33 Evidence of a planned or potential alternative Transport service may include a planned site or service, a logical service path, nearby fibre, tails, ducts, route overlap, node coverage, data centre connectivity, meet-me arrangements, or a path that could be commissioned or extended.
- D34 A planned or potential Transport service was treated as a usable alternative where the evidence established that it could credibly and practically be supplied for the relevant Transport function. The assessment considered the available evidence about matters such as the status of the plan, expected availability, necessary connections or extensions, and practical handoff, onward carriage and handover. A theoretical build option, unsupported plan, route proximity or infrastructure presence alone was not sufficient.

Commercial availability and self-supply

- D35 The relevance of a usable alternative depended on whether it was available for the demand being assessed. Some infrastructure may be available only for self-supply.

- D36 An access seeker was treated as an alternative provider in relation to its own demand where the evidence established that it could use self-supplied or leased infrastructure instead of obtaining the relevant Transport service from the regulated provider. It therefore contributed towards LFC ≥ 1 or LFC ≥ 2 for that demand in the same way as any other alternative provider capable of supplying a usable alternative. Self-supply did not need to be available to third parties to count for the self-supplying access seeker's own demand. However, we did not treat it as a wholesale alternative for other access seekers unless the evidence established that it was available to them.
- D37 Similarly, dark fibre was treated as a usable Layer 1 alternative only where the evidence supported the availability of spare fibre, termination, commissioning and the ability to light and operate the service.

Other treatment of evidence

- D38 Decommissioned services or paths were not counted unless there was specific evidence that they would be recommissioned and could practically be used.

Onward path and handover

- D39 For an alternative provider to be counted, it also needed an onward path to a handover point that the access seeker could practically use.
- D40 Relevant evidence included direct Transport links, logical service paths, dark fibre, wavelength or Ethernet capability, commercial backhaul, data centre connectivity, or other known handover arrangements.
- D41 Where the exact access seeker core location was not available, we used practical handover locations as proxies, subject to validation.
- D42 The alternative path also needed to support the required traffic flows in both directions between the pickup point and the access-seeker-usable handover point.
- D43 We did not require an alternative provider to be near both endpoints of the regulated link in every case. Where the alternative provider could receive traffic at or before the point where the regulated Transport segment would otherwise begin and carry that traffic to an access-seeker-usable handover point, the return path was assessed on the same basis. Proximity to both endpoints was required only where the claimed alternative replicated the regulated provider's A–B route.

Classification of results

- D44 We recorded for each assessed link instance whether:
- D44.1 no alternative provider capable of supplying a usable alternative was identified – LFC-only;
 - D44.2 at least one alternative provider capable of supplying a usable alternative was identified – LFC ≥ 1 ; and
 - D44.3 at least two alternative providers capable of supplying usable alternatives were identified – LFC ≥ 2 .
- D45 As explained in Chapter 3, LFC-only and LFC ≥ 1 together account for all assessed link instances, while LFC ≥ 2 is a subset of LFC ≥ 1 . In the charts, LFC-only and LFC ≥ 1 form the main stacked bar and together total 100%. LFC ≥ 2 is shown in a separate aligned bar within the LFC ≥ 1 result.
- D46 Where the available evidence was insufficient to establish that an alternative provider could supply a usable alternative, that provider was not included in the reported LFC ≥ 1 or LFC ≥ 2 results for the relevant link instance. This does not necessarily mean that the possible service or path was technically unavailable.
- D47 We aggregated these results by regulated provider and assessed area. The 50% analytical reference point was applied to the proportion of assessed link instances meeting LFC ≥ 2 .
- D48 The results provide an infrastructure-based assessment of the availability of usable alternatives. They do not, by themselves, establish that it would produce outcomes consistent with those in workably competitive markets, for a link instance or assessed area, or determine whether regulation should be removed. Chapter 3 considers these results together with the available evidence about the effectiveness of the identified competitive constraints.

Results

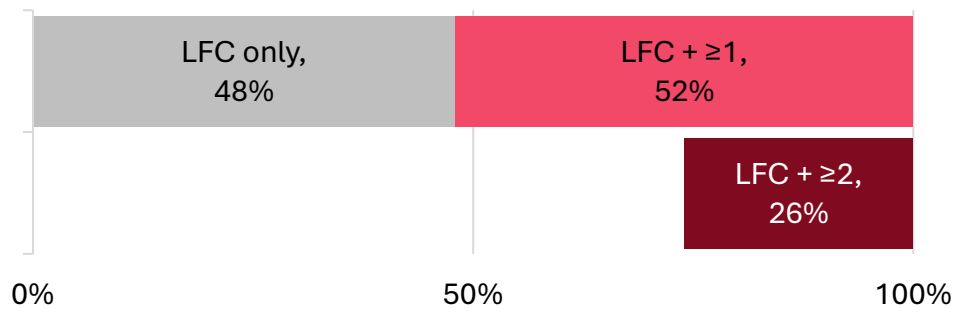
Enable – Christchurch

- D49 Enable is the regulated provider in a single POI Area: Christchurch.⁴⁶

⁴⁶ The UFB POI Area is Christchurch, Rangiora and Rolleston in Canterbury Region. We refer to the POI Area as Christchurch.

- D50 Christchurch showed greater overlap with other fibre networks than several other assessed areas. This warranted closer assessment, but an alternative provider was counted only where the evidence established practical handoff, onward carriage and delivery to a handover point that the access seeker could use. Overlapping or nearby infrastructure alone was not sufficient.

Figure D1 Enable – Christchurch link assessment

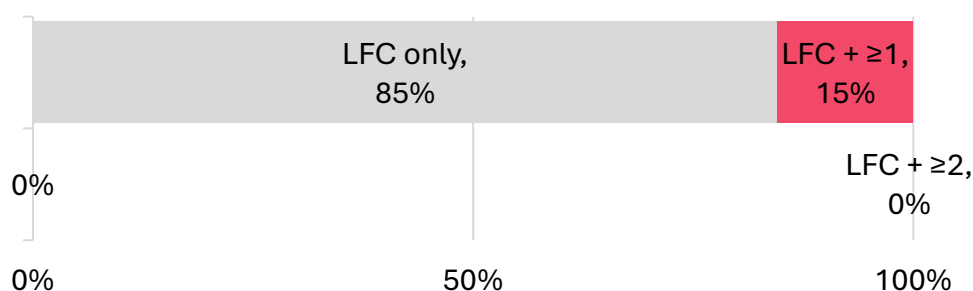


Source: RFI data analysis

- D51 Of the assessed Enable – Christchurch link instances, 52% met LFC + ≥ 1 and 26% met LFC + ≥ 2 . The LFC + ≥ 1 result indicates there may be some competitive constraint across a majority of assessed link instances. However, LFC + ≥ 2 findings were not prevalent across the assessed area.

Northpower – Whangārei

- D52 Northpower is the regulated provider in a single POI Area: Whangārei.
- D53 The available evidence indicates that some alternative provider infrastructure is present in Whangārei, but it is confined mainly to particular routes or network locations.
- D54 Most assessed link instances fall into the LFC-only category. This includes cases where alternative provider infrastructure is present but has not been treated as a usable alternative because, on current evidence, there is no practical handoff or connectability pathway from the relevant Northpower location.

Figure D2 Northpower – Whangārei link assessment

Source: RFI data analysis

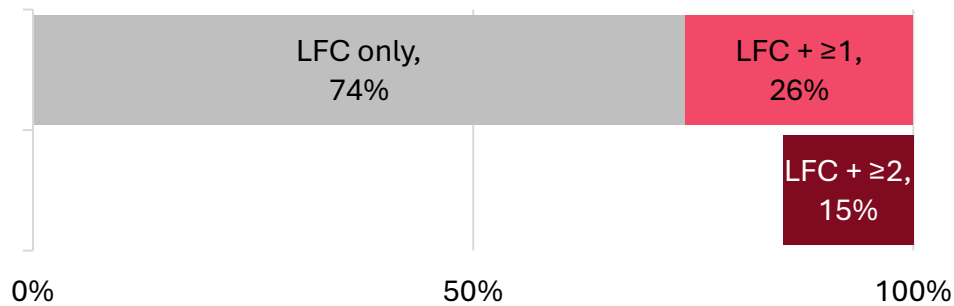
- D55 Of the assessed Northpower – Whangārei link instances, 15% met LFC + ≥ 1 and no assessed link instance met LFC + ≥ 2 .

Tuatahi – Hamilton, Tauranga, New Plymouth and Whanganui

- D56 Tuatahi is the regulated provider in four POI Areas: Hamilton, Tauranga, New Plymouth and Whanganui.⁴⁷
- D57 Alternative provider infrastructure was identified in or near some Tuatahi areas, but a provider was counted only where the evidence established a usable alternative for the relevant link instance.
- D58 In hosted LFC arrangements, Tuatahi may not own the underlying exchange or facility. This may reduce Tuatahi's control over physical accommodation. However, access to Tuatahi's network still requires interconnection with Tuatahi. Hosted arrangements therefore do not, by themselves, establish a usable Transport alternative.
- D59 The individual area charts below show the proportion of assessed link instances meeting LFC + ≥ 1 and LFC + ≥ 2 in each Tuatahi area.

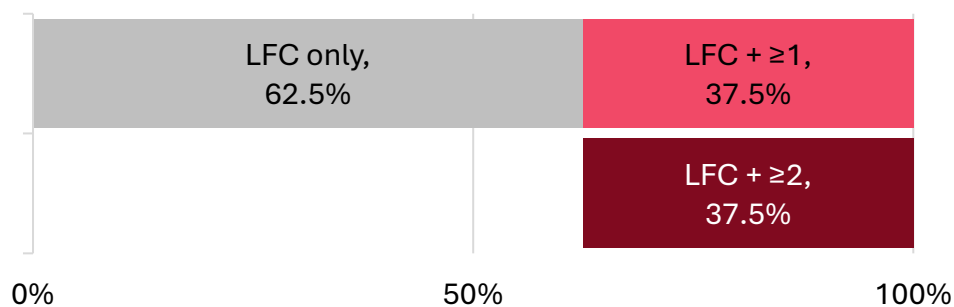
⁴⁷ The UFB POI Area is Hamilton, Tokoroa, Cambridge and Te Awamutu. We refer to the POI Area as Hamilton.

The UFB POI Area is New Plymouth and Hawera. We refer to the POI Area as New Plymouth.

Figure D3 Tuatahi – Hamilton link assessment

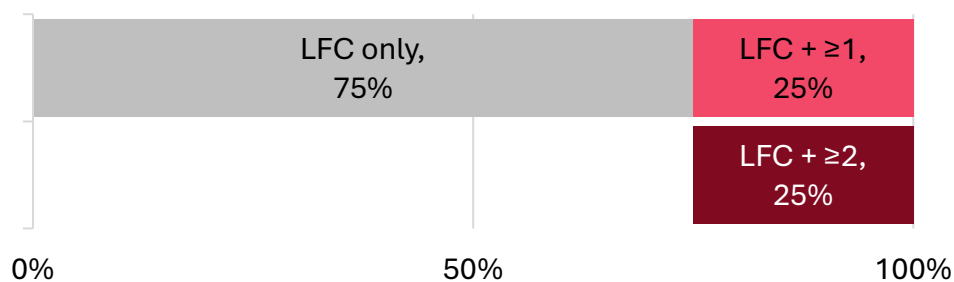
Source: RFI data analysis

- D60 Of the assessed Tuatahi-Hamilton link instances, 26% met LFC + ≥ 1 and 15% met LFC + ≥ 2 . The results identify some usable alternatives, including targeted LFC + ≥ 2 findings, but do not demonstrate prevalent LFC + ≥ 2 conditions across the area.

Figure D4 Tuatahi – New Plymouth link assessment

Source: RFI data analysis

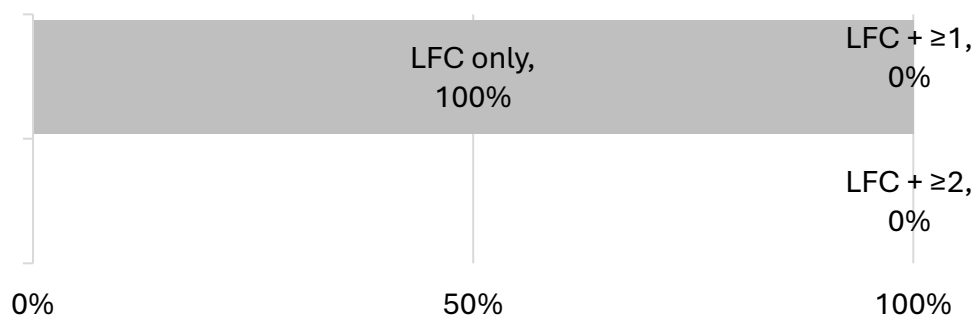
- D61 Of the assessed Tuatahi-New Plymouth link instances, 37.5% met LFC + ≥ 1 and the same proportion met LFC + ≥ 2 . Accordingly, every assessed link instance meeting LFC + ≥ 1 also met LFC + ≥ 2 . However, those findings occurred on 37.5% of assessed link instances and were not prevalent across the assessed area.

Figure D5 Tuatahi – Tauranga link assessment

Source: RFI data analysis

- D62 Of the assessed Tuatahi–Tauranga link instances, 25% met LFC ≥ 1 and the same proportion met LFC ≥ 2 . Accordingly, every assessed link instance meeting LFC ≥ 1 also met LFC ≥ 2 , but those findings occurred on only 25% of assessed link instances.

Figure D6 Tuatahi – Whanganui link assessment



Source: RFI data analysis

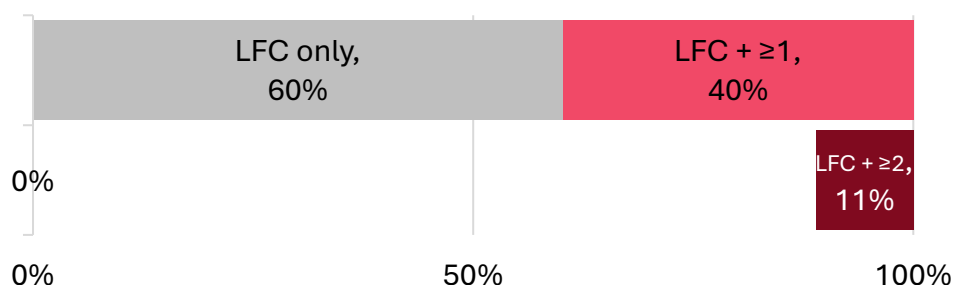
- D63 No assessed Tuatahi–Whanganui link instance met LFC ≥ 1 or LFC ≥ 2 . No usable alternative was identified on the current evidence.
- D64 Considered together or separately, no assessed Tuatahi area had LFC ≥ 2 findings on at least 50% of assessed link instances.

Chorus

- D65 For Chorus, the primary areas assessed were Auckland, Wellington, Christchurch, Whangārei, and the Tuatahi areas of Hamilton, Tauranga, and New Plymouth. Nelson, Napier/Hastings and Palmerston North were also progressed for targeted review because route-specific evidence warranted further assessment despite lower area-level provider counts.

Chorus – Auckland⁴⁸

Figure D7 Chorus – Auckland link assessment



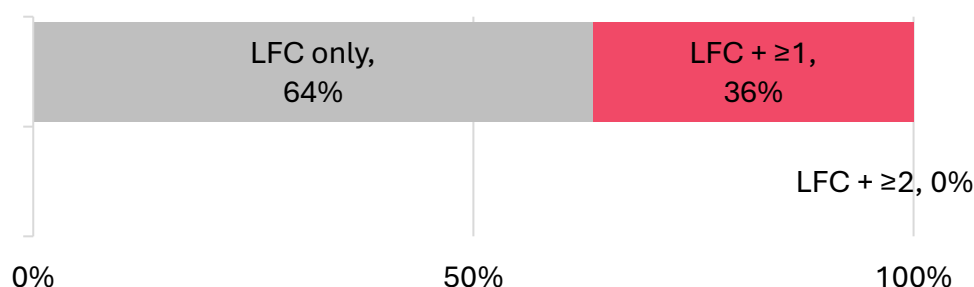
⁴⁸ The UFB POI Area is Auckland, Pukekohe, Waiheke Island and Waiuku. We refer to the POI Area as Auckland.

Source: RFI data analysis

- D66 Of the assessed Chorus – Auckland link instances, 40% met LFC ≥ 1 and 11% met LFC ≥ 2 .
- D67 The assessment identifies some usable alternatives, including some link instances meeting LFC ≥ 2 . However, LFC ≥ 2 findings were isolated across the assessed Auckland area.

Chorus – Christchurch⁴⁹

Figure D8 Chorus – Christchurch link assessment

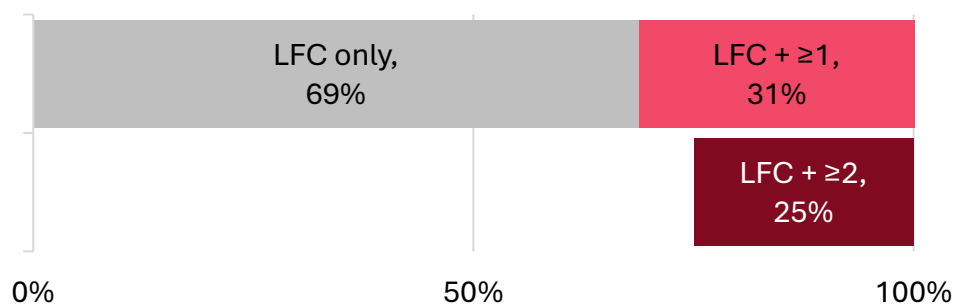


Source: RFI data analysis

- D68 Of the assessed Chorus – Christchurch link instances, 36% met LFC ≥ 1 , while no assessed link instance met LFC ≥ 2 .

Chorus – Hamilton⁵⁰

Figure D9 Chorus – Hamilton link assessment



Source: RFI data analysis

- D69 Of the assessed Chorus – Hamilton link instances, 31% met LFC ≥ 1 and 25% met LFC ≥ 2 .

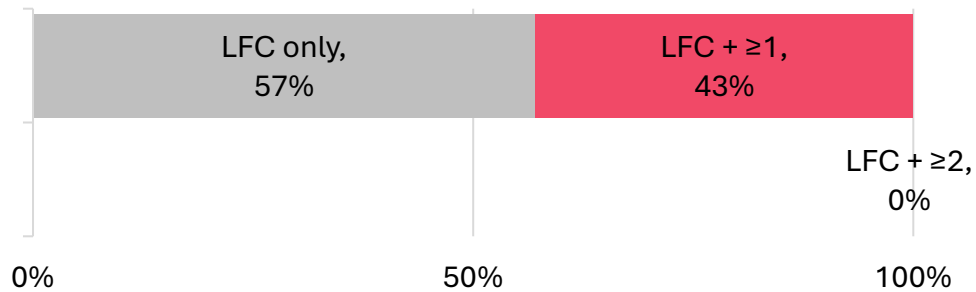
⁴⁹ The UFB POI Area is Christchurch, Rangiora and Rolleston. We refer to the POI Area as Christchurch.

⁵⁰ The UFB POI Area is Hamilton, Tokoroa, Cambridge and Te Awamutu. We refer to the POI Area as Hamilton.

D70 The results indicate stronger structural conditions on some routes, but the LFC + $\geq$ 2 findings were not prevalent across the assessed area.

Chorus – Napier/Hastings

Figure D10 Chorus – Napier / Hastings link assessment

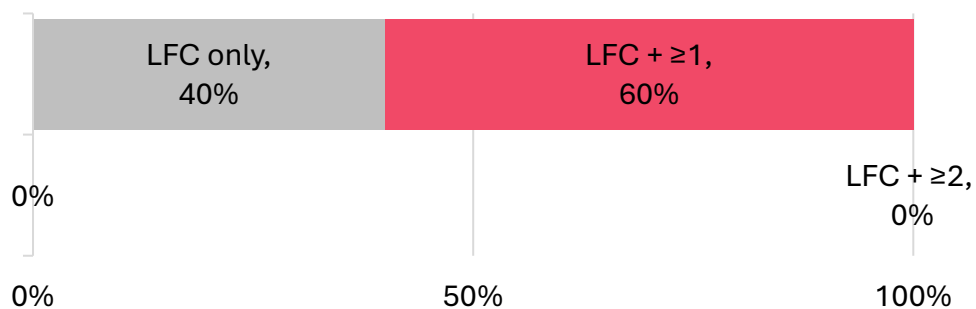


Source: RFI data analysis

D71 Of the assessed Chorus – Napier / Hastings link instances, 43% met LFC + $\geq$ 1, while no assessed link instance met LFC + $\geq$ 2.

Chorus – Nelson

Figure D11 Chorus – Nelson link assessment

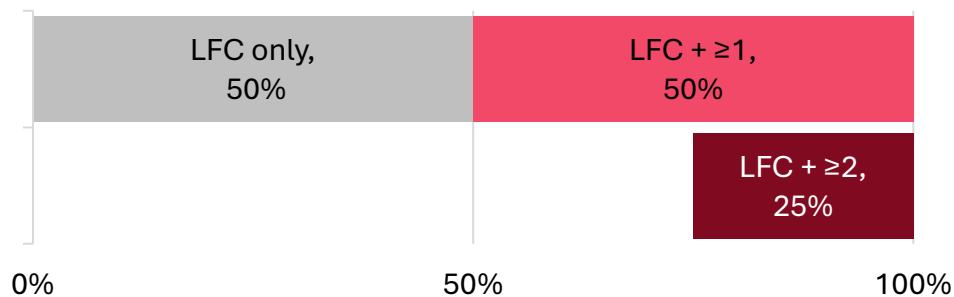


Source: RFI data analysis

D72 Of the assessed Chorus – Nelson link instances, 60% met LFC + $\geq$ 1, while no assessed link instance met LFC + $\geq$ 2.

Chorus – New Plymouth⁵¹

Figure D12 Chorus – New Plymouth link assessment

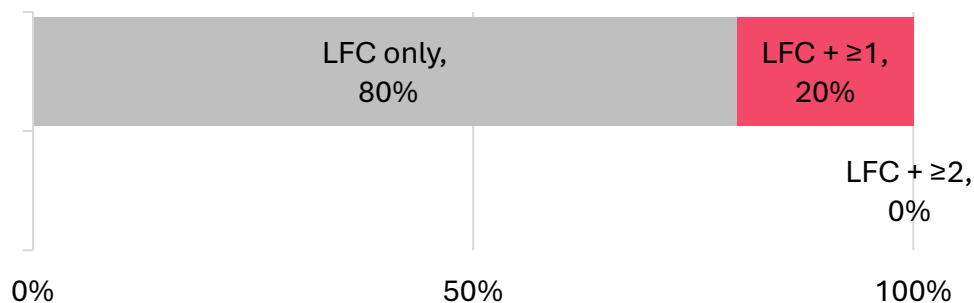


Source: RFI data analysis

- D73 Of the assessed Chorus–New Plymouth link instances, 50% met LFC ≥ 1 and 25% met LFC ≥ 2 .
- D74 The LFC ≥ 1 result indicates some competitive constraint across half of the assessed links. However, the proportion meeting LFC ≥ 2 was materially lower and did not demonstrate prevalent LFC ≥ 2 conditions across the assessed area.

Chorus – Palmerston North⁵²

Figure D13 Chorus – Palmerston North link assessment



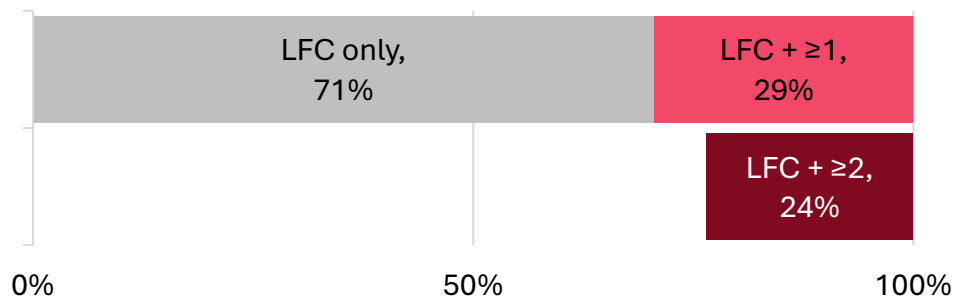
Source: RFI data analysis

- D75 Of the assessed Chorus – Palmerston North link instances, 20% met LFC ≥ 1 , while no assessed link instance met LFC ≥ 2 .
- D76 Some usable alternatives were identified, but no assessed Chorus–Palmerston North link instance met LFC ≥ 2 .

⁵¹ The UFB POI Area is New Plymouth and Hawera. We refer to the POI Area as New Plymouth.

⁵² The UFB POI Area is Palmerston North and Feilding in Manawatu-Whanganui Region. We refer to the POI Area as Palmerston North.

Chorus – Tauranga

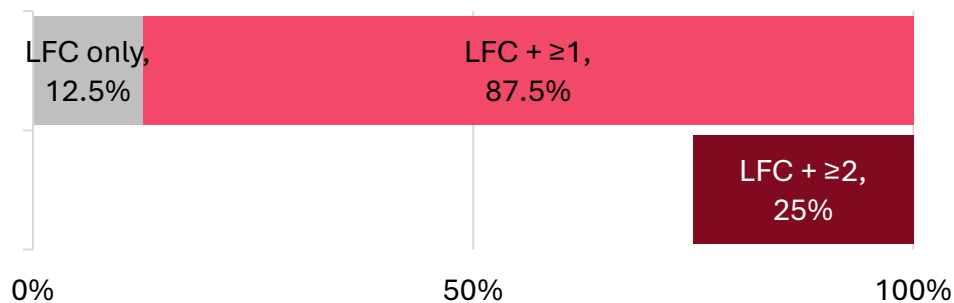
Figure D14 Chorus – Tauranga link assessment

Source: RFI data analysis

D77 Of the assessed Chorus – Tauranga link instances, 29% met LFC ≥ 1 and 24% met LFC ≥ 2 .

D78 The findings show targeted links meeting LFC ≥ 2 , but do not demonstrate prevalent LFC ≥ 2 conditions across the assessed area.

Chorus – Wellington

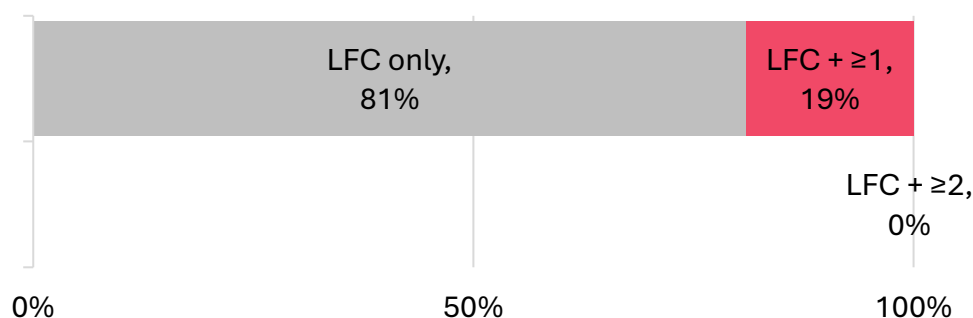
Figure D15 Chorus – Wellington link assessment

Source: RFI data analysis

D79 Of the assessed Chorus – Wellington link instances, 87.5% met LFC ≥ 1 and 25% met LFC ≥ 2 .

D80 The high LFC ≥ 1 result indicates that Chorus may face some competitive constraint across a material proportion of assessed links. However, the lower LFC ≥ 2 result shows that links meeting the LFC ≥ 2 benchmark were not prevalent across the assessed area.

Chorus – Whangārei

Figure D16 Chorus – Whangārei link assessment

Source: RFI data analysis

- D81 Of the assessed Chorus – Whangārei link instances, 19% met LFC + ≥ 1 and no assessed link instance met LFC + ≥ 2 .
- D82 The assessment therefore identifies limited infrastructure-based competition in the assessed Whangārei area.

Relationship to the 50% analytical reference point

- D83 We considered whether the area-level findings depend materially on using 50% as the analytical reference point by examining how far the reference point would need to be reduced before any assessed provider-area combination reached it. This analysis does not change the underlying LFC + ≥ 2 results or establish an alternative standard for assessing sufficient competitive constraint which would produce outcomes consistent with those in workably competitive markets described in s 162.
- D84 No assessed provider-area combination met the 50% reference point. The highest LFC + ≥ 2 result was Tuatahi–New Plymouth at 37.5%, followed by Enable–Christchurch at 26%. The area-level findings therefore do not depend on an assessed result falling only marginally below 50%.
- D85 This analysis does not establish a lower reference point or alter the LFC + ≥ 2 approach adopted in Attachment B. Even if a lower reference point were used, reaching it would not, by itself, demonstrate sufficient competitive constraint to support deregulation. The infrastructure results would still need to be considered together with the available evidence on the effectiveness of the identified competitive constraints, as discussed in Chapter 3.