

# Tuatahi First Fibre Limited cross-submission on the Commerce Commission draft recommendation: Fibre deregulation review – Draft recommendation on Point-to-point Transport, and Co-location and interconnection Fibre Fixed Line Access Services

09.10.2026

## 1. Introduction and Executive Summary

- 1.1 Tuatahi First Fibre Limited (**Tuatahi**) welcomes the opportunity to provide this cross-submission relating to the submissions made in response to the *Fibre deregulation review – Draft recommendation on Point-to-point, Transport, and Co-location and interconnection Fibre Fixed Line Access Services* issued by the Commerce Commission (**Commission**) on 13 August 2026.

## 2. Part 4AA of the Telecommunications Act

- 2.1 We agree with Enable that “the Commission should give greater weight to the continuing Part 4AA framework when assessing the counterfactual”.<sup>1</sup> As we noted in our submission, “our obligations under Part 4AA provide far greater transparency and regulatory oversight than Part 6.”<sup>2</sup>

## 3. LFC + 1 sufficient competitive constraint

- 3.1 We agree with Enable that LFC+2 “should not be a de facto threshold”,<sup>3</sup> “is to mechanistic in practice”<sup>4</sup>, and “a market with an incumbent LFC and one credible alternative provider can be workably competitive where demand is concentrated, buyers are sophisticated, contracts are tendered, customers can sponsor build, and the incumbent faces material consequences from losing major customers”.<sup>5</sup>
- 3.2 We agree with Chorus, as explained in the NERA Report that “the LFC +2 threshold is overly conservative.”<sup>6</sup> We said in our submission<sup>7</sup> that the Commission’s adoption of the LFC+2 threshold appeared to be a departure from long-established precedent dealing with backhaul regulation. Section 2.3 of the NERA Report confirms that this is the case.

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<sup>1</sup> Submission by Enable Networks Ltd to the Fibre Deregulation Review 17 September 2026 (**Enable Submission**) at [11]

<sup>2</sup> Tuatahi First Fibre Ltd submission on the draft recommendation: Fibre Deregulation Review 17 September 2026 (**Tuatahi Submission**) at [2.9]

<sup>3</sup> Enable Submission at [4.1]

<sup>4</sup> Above at [5]

<sup>5</sup> Above at [5]

<sup>6</sup> Chorus Submission on Fibre Deregulation Review 17 September 2026 (**Chorus Submission**) at [61]

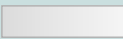
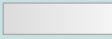
<sup>7</sup> Tuatahi Submission at [3.7]

- 3.3 The Commission has recognised that regulatory predictability in its decisions helps to promote the long-term benefit of end-users under Part 6 of the Act.<sup>8</sup> If the Commission intends to depart from its previous competition test, it needs to explain the reason for its change in approach in clear terms.

#### 4. Point-to-point FFLAS

- 4.1 We made the point in our submission that Chorus was a direct competitor in DFAS supply across our network,<sup>9</sup> was a critical element of the competitive constraint we face in DFAS provision,<sup>10</sup> and was able to offer DFAS at a material discount to our pricing because we were bound by part 4AA obligations (reference offer and non-discrimination) and Chorus was not.<sup>11</sup>
- 4.2 The Table on p9 of the Enable Submission illustrates the magnitude of that competition:

**Enable Submission (17 September 2026), p.9 – Table showing P2P connections across POI areas**  
*Extract of the POI Area / P2P Connections table, limited to the four POI areas relevant to Tuatahi First Fibre (TFF)*

| POI Area              | P2P Connections                                                                     |     |
|-----------------------|-------------------------------------------------------------------------------------|-----|
| Hamilton (TFF)        |    | 449 |
| Hamilton (Chorus)     |    | 412 |
| New Plymouth (TFF)    |    | 70  |
| New Plymouth (Chorus) |    | 157 |
| Tauranga (TFF)        |  | 154 |
| Tauranga (Chorus)     |  | 201 |
| Whanganui (TFF)       |  | 32  |
| Whanganui (Chorus)    |  | 28  |

- 4.3 The facts simply do not support the Commission’s conclusion that a single alternative fibre provider does not impose sufficient constraint because it is “*likely to result in limited and fragile competitive constraint.*”<sup>12</sup>

#### 5. Transport FFLAS

- 5.1 We agree with Chorus that “*the fibre network can be viewed as a mesh of fibre routes over which a range of services are delivered*”<sup>13</sup> but do not agree that these links constitute FFLAS transport Services. As we set out in our submission,<sup>14</sup> this “*mesh of fibre routes*” is the fibre network which access seekers are able to obtain access to and interconnection with but is not itself a FFLAS.

<sup>8</sup> NZCC *Economic principles potentially relevant to our new regime* Workshop material 10 December

<sup>9</sup> Tuatahi Submission at [4.12]

<sup>10</sup> Above at [4.13]

<sup>11</sup> Above at [4.14]

<sup>12</sup> NZCC *Fibre Deregulation Review Draft Recommendation* 13 August 2026 at [B3]

<sup>13</sup> Chorus Submission at [69]

<sup>14</sup> Tuatahi Submission at [5.9] and [5.10]

## 6. Co-location and interconnection FFLAS

- 6.1 We agree with Enable that co-location and interconnection is a tiny market with negligible impact on ROI.<sup>15</sup> Enable reports co-location/interconnection accounts for less than 1.5% of their revenue; for Tuatahi it is [REDACTED].
- 6.2 We also agree with Enable<sup>16</sup> that Part 4AA obligations apply to 100% of our interconnection services.

## 7. Wider benefits of deregulation

- 7.1 We agree with Enable that *“the predominant benefit [of removing regulation] is actually confidence in the regulatory regime, and applying the principle that where regulation is no longer necessary it should be removed. This should be regardless of the small size of the immediate benefits”*.<sup>17</sup>
- 7.2 This is consistent with the principle that underpinned the enactment of Part 6 that *“regulation is only applied to the extent necessary to address a lack of competition.”*<sup>18</sup> We agree with Enable that *“the decision to deregulate should be guided by whether regulation remains necessary to address an identified concern.”*<sup>19</sup>

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<sup>15</sup> Enable Submission at [57.4]

<sup>16</sup> Above at [57.2]

<sup>17</sup> Above at [15]

<sup>18</sup> Explanatory Note to Telecommunications (New Regulatory Framework) Amendment Bill 2017 at p2

<sup>19</sup> Enable Submission at [18]