Tuatahi First Fibre Limited Submission on Commerce Commission Draft recommendation report for the Deregulation of Voice FFLAS

27 November 2025

Introduction

1. Thank you for the opportunity to provide feedback on the Commerce Commission's draft decision on whether Voice FFLAS should be deregulated in isolation.
2. Tuatahi agrees with the Commission's conclusion that there is workable competition in the voice market but does not agree with the draft recommendation that Voice FFLAS should remain regulated for the following reasons:
    a. There is a clear benefit to removing regulation which is non-functional, in that it is not needed to address a lack of competition and therefore serves no regulatory purpose. Retaining non-functional regulation is only appropriate where the costs involved in deregulation significantly outweighed these benefits. Our view is that deregulation is appropriate in situations where costs and benefits are "finely balanced".
    b. However, in this case the benefits of deregulation (including the removal of the indirect impacts on competition and innovation of non-functional regulation) far outweigh any potential compliance costs. As discussed below, if deregulation resulted in any additional compliance costs they would be immaterial.
3. If the Commission remains of the view that the costs of deregulating Voice FFLAS **in isolation** sufficiently outweighs the benefits, such that it would not recommend deregulation, Tuatahi requests that the Commission delays its final recommendation on Voice FFLAS until it has completed its assessment of the other services currently being reviewed (Transport, and for Tuatahi and other non-Chorus LFCs , point to point and co-location services in non-Chorus LFC areas) so that the costs and benefits of deregulation of all four services (for non-Chorus LFCs) be considered together.

Response to specific points raised in the draft decision

4. As one of the Local Fibre Companies (LFC), Tuatahi is a provider of regulated Voice FFLAS, as well as other regulated fibre services. We provide the following feedback on specific points raised in the draft decision.

Chapter 2 – Description of Voice FFLAS

5. Tuatahi agrees with the Commerce Commission's description of Voice FFLAS and has no feedback on this point.

Chapter 2 – The Market and Identification of Alternatives

6. Tuatahi agrees with the Commerce Commission's description of the Voice FFLAS market and the identified alternatives. Our experience aligns with the assessment made of identified

alternatives, as voice connections represent a very small proportion of our connection base and revenue (see paragraph 8 below).

7. The data we have on Voice FFLAS uptake on our network, read in conjunction with the increase in VoIP applications as well as mobile coverage (and usage) supports the market assessment made by the Commission.

Chapter 2 – Effectiveness of competitive constraints

8. Tuatahi agrees with the Commission's conclusion that there is no Significant Market Power (SMP) held by Voice FFLAS providers in the Voice market as it is workably competitive:
    a. Tuatahi agrees that Voice FFLAS is a declining market. Tuatahi provided information regarding the number of connections on our network utilising Voice FFLAS during the cross-submission on the draft-decision for the reasonable grounds assessment. We outlined that only 0.28% of our connections are utilising this capability, meaning 99.72% of our connections are accessing voice services through one of the alternative options available (such as VoIP, or cellular access). Since then, the number has increased slightly to [redacted] voice-only connections (representing 0.34% of total connections) due to a large increase in copper withdrawal connections completed over the last quarter.
    b. End users can receive voice services over multiple non-Voice FFLAS technologies, and we agree with the Commission's assessment that most of these alternatives could be considered close substitutes to Voice FFLAS. As the Commission notes, it is not possible to assess potential differences in quality. However, there is overwhelming evidence of the consumer trend away from landlines as consumers make price-quality trade-offs/choices. We also agree with the Commission's assessment that there are other quality benefits consumers factor into their assessment, such as the ability to use cellular services on the move[1].

Alignment with the purpose of s162 and 166(2)(b)

9. The Commission concludes in its draft decision that continued regulation of Voice FFLAS would best give effect to ss 162 and 166(2)(b) as it would minimise the costs involved in separating out Voice FFLAS costs from other regulated services, improving (or not lessening) efficiencies for the remaining regulated FFLAS which could be shared with end-users.
10. In our view there is an inherent benefit in removing non-functional regulation which no longer addresses a lack of competition and is therefore unnecessary, which has not been given sufficient consideration in the Commission's assessment. The driving principle underpinning the enactment of Part 6 is that "*regulation is **only** applied to the extent necessary to address a lack of competition"* A decision to continue regulation in a workably competitive market is inconsistent with this fundamental principle.

[1] Para 2.49 of the Commerce Commissions *Draft recommendation to the Minister for Media and Communications on fibre Voice services*

The Commission has acknowledged that Voice FFLAS regulation no longer addresses any competition issues as the voice market is workably competitive and there is no SMP held by Voice FFLAS providers. Accordingly, the continued regulation of Voice FFLAS serves no regulatory purpose and delivers no benefit to end-users.

11. Non-functional regulation should only be retained if the costs involved in deregulation significantly outweighed the benefits of removing it. In this case, the benefits of deregulation far outweigh the compliance costs involved with separating Voice FFLAS revenue and costs from other regulated services (as they are negligible and immaterial). Our submission on these points is set out below.

Costs

12. Deregulation would not be likely to materially increase compliance costs as we can easily identify and re-allocate Voice FFLAS revenues and costs. Tuatahi has one voice-only service, Baseband ATA. This has [redacted] voice-only connections, accounting 0.34% of total connections, so we can easily identify voice-only revenue.
13. As Tuatahi's wholesale price for a bundled voice/bitstream service is the same as the wholesale price for the same bitstream service without a voice component it earns no incremental revenue from the voice component of a bundled voice/bitstream service. There is accordingly no voice revenue from the bundled service to be identified. If Voice FFLAS were deregulated, it would be a very simple exercise for Tuatahi's finance team to move that service and the associated revenue into unregulated services.
14. In relation to costs, Tuatahi would allocate the total capex and opex costs of providing Baseband ATA to the unregulated Voice FFLAS. The assets used to provide Baseband ATA would be removed from Tuatahi's Regulated Asset Base and there would be no possibility of risk of non-voice customers bearing the cost of Baseband ATA services.
15. The process outlined above would not be a difficult task for the finance team to undertake and would not impose any material compliance costs on the business.

Benefits

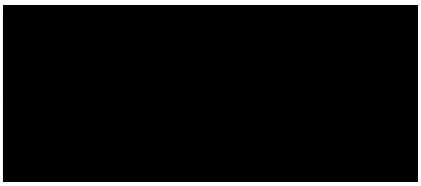
16. There are inherent benefits to removing non-functional regulation. There is abundant evidence that regulation imposes substantial economic costs that take a variety of forms including reduced rates of capital investment, inefficient allocation of inputs and slower productivity growth.[2] The removal of non-functional regulation is therefore, a benefit in and of itself. It removes these indirect impacts on competition and innovation while allowing regulators to conserve and focus resources on enforcing functional regulations which continue to address important societal issues/concerns.
17. In addition, given Tuatahi is subject to the Information Disclosure regime, deregulation of Voice FFLAS will reduce the administrative burden of completing the Information Disclosure schedules and particularly the Schedule 25 on pricing.

[2] See Steven Globerman "Strategies for Deregulation: Concepts and Evidence" (2018), Fraser Institute.

18. Accordingly, Tuatahi see the benefits of deregulation as far outweighing the immaterial/negligible costs of deregulation. Tuatahi therefore submits that the Commission should recommend deregulation of Voice FFLAS services.

Delaying the recommendation to align with other FFLAS category recommendations

19. If the Commission still considers the decision to be finely balanced, based on the costs of deregulating Voice FFLAS (in isolation), balanced against the benefits of deregulating Voice FFLAS, Tuatahi request that the Commission delay its final Voice FFLAS recommendation until it has completed its assessment of the other three FFLAS categories.
20. In this respect, the non-Chorus LFCs cannot be treated in the same way as Chorus, as two of deregulation reviews (point to point and co-location services) are limited to services provided by non-Chorus LFCs in non-Chorus LFC areas, and therefore those reviews do not apply to Chorus.



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