

## Chorus Code of Conduct

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### Code of Conduct.

As part of our ongoing customer<sup>1</sup> focus, Chorus is committed to being a compliant open access wholesaler. Our commitment is reflected in the Chorus Open Access Deeds of Undertaking – which are about creating a level playing field on which all of our Retail Service Provider (RSP) customers can compete.

This code of conduct provides important guidance on what we all need to do to meet the commitments we've made, including when we are developing and delivering services, talking to RSP customers and managing information.

Chorus has a reputation for respecting the rights of all stakeholders including RSP customers and end consumers, but it's very easy to lose their confidence by not doing so and not following the rules. So please take the time to read and understand this Code of Conduct and its guiding principles so you understand clearly how you should act.

If you have questions, please ask your People Leader or contact the General Counsel's Office. They're here to help. At Chorus there's no such thing as a stupid question, just easy answers. So please don't be afraid to ask.

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<sup>1</sup> In this document we refer to Retail Service Providers (RSP's) as "RSP customers" and end customers as "end consumers". End consumers purchase and consume services from RSP customers who purchase our open access wholesale services.

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## OVERVIEW

### ***What does this Code of Conduct Cover?***

This Code of Conduct is a guide to how you should act in your day-to-day job to ensure we comply with our Open Access Deeds of Undertaking.

There are four Open Access Deeds of Undertakings – a Copper Deed, a Fibre Deed, an RBI Deed and a UFB2 Deed. This Code of Conduct tells you what you need to know about all four - we will simply call these “**the Deeds**” throughout the Code.

### ***What services do the Deeds apply to?***

The Deeds apply to almost all of the telecommunications services that Chorus provides to its RSP customers – including our copper, fibre and RBI services.

### ***What do the deeds cover?***

At a high level, there are two key requirements in the Deeds. These are:

- How we supply services – on a non-discriminatory or equivalent basis; and
- How we manage Chorus Commercial Information and our RSP customer’s Confidential Information.

We’ll cover these requirements in more detail in this Code of Conduct.

There are also certain reporting requirements that we have to meet to show that we are doing the right thing.

### ***Why do you need to read this Code of Conduct?***

Chorus is committed to being a compliant open access wholesaler. This commitment is reflected in the Deeds. It is important that we all understand what is required of us in our day-to-day jobs so we can give our RSP customers confidence that we are doing the right thing.

There are also significant legal fines if we do not meet our requirements.

### ***What do you do if you have questions?***

It is important that we all understand what is required of us. So if you have questions, don’t be afraid to ask the General Counsel’s Office – they’ll be happy to help.

This Code is a guide to our obligations in the Deed, but isn’t intended to replace the Deeds. There may be questions or scenarios that we haven’t anticipated, and the Code isn’t intended to create new obligations. So we will always check the Deeds if you have questions about what we can and can’t do.

### ***What do you do if you think you’ve done something wrong?***

If you think you’ve done something inconsistent with the Deeds, don’t panic! Make a Stay in Tune submission and the Chorus Compliance Manager will work through the issue with you.

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## 1. WHAT SERVICES DO THE DEEDS APPLY TO?

The Deeds apply to almost all of the telecommunications services that Chorus provides to its RSP customers – including our copper, fibre and RBI services.

There are a very small number of exceptions. If you think that a service you are dealing with might fall outside the Deeds, check with the General Counsel's Office first.

### **Top Tip**

It doesn't matter whether a service is regulated or commercial, or being used by our RSP customers for mobile or fixed purposes – almost all of Chorus' services are covered by the Deeds.

### **Top Tip**

We provide some services on Spark's behalf (e.g. resale and interconnection). These services aren't covered by the Deeds. But we do need to provide them in accordance with our agreement with Spark.

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## 2. HOW WE SUPPLY SERVICES

The Deeds set out certain rules about how we develop services, the terms we offer them on, and how we deliver them to RSP customers and ourselves. At a high level, these rules are designed to create a level playing field – so that all our RSP customers can compete for end consumers from the same platform. It is also about making sure that Chorus is on an equal footing with our RSP customers when competing for Layer 2 RSP customers using our Layer 1 services.

There are two service standards – non-discrimination and equivalence of inputs. We explain these in more detail below.

### **Top Tip**

“Layer 1” services provide passive access to parts of Chorus’ network and don’t include any electronics. So a service that allows an RSP customer to connect a piece of Chorus fibre-optic cable to their own equipment, or a service that lets them put that equipment in a Chorus building, would be a “Layer 1” service. It includes services like UCLL, SLU and Dark Fibre Access.

### **Top Tip**

“Layer 2” services include use of Chorus electronics and can be thought of as active access. With a “Layer 2” service not only does the RSP customer get access to a piece of Chorus fibre-optic cable, but Chorus will also use its own electronics to deliver signal over the cable. All the RSP customer has to do is pick-up the traffic at the point of interconnection. It includes services like UBA and the fibre bitstream services.

### **Non-discrimination**

Non-discrimination applies to all of the services covered by the Deeds (which is almost all of Chorus’ services).

### ***How do I make sure I treat RSP customers in a non-discriminatory way?***

If you are developing, selling or supplying a service, your starting assumption should be that you need to treat all RSP customers in the same way. For example, this might include:

- Consulting with all of our RSP customers on the way when we are designing new services;
- Offering the same services and terms (including price) to all of our RSP customers;
- Making sure that services are provisioned in the same timeframes for all RSP customers;
- Giving all RSP customers information about new services; and
- Making sure that Chorus is not in an advantageous position when developing Layer 2 services when compared to our RSP customers.

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A good rule of thumb is to ask: if I do this, will it mean one RSP customer is in a different position than another when they are competing for end consumers? If the answer is “yes”, there may be a discrimination issue.

### **Top Tip**

Non-discrimination doesn't necessarily mean that we have to use the same systems to deliver services to all of our RSP customers or ourselves. But we still need to make sure that the way we deliver the services puts all of our RSP customers on an equal footing.

### ***What if an RSP customer asks for something different?***

RSP customers will ask for different things sometimes. The fact that they make these requests doesn't change our approach to open access or permit non-compliance with our commitments.

If an RSP customer does ask us to do something different for them, the first thing to ask is whether we can do the same thing for all of our RSP customers. If we decide to meet the RSP customer's request by offering it to all Chorus RSP customers, we need to make sure that all RSP customers could genuinely take up the offer. A good question to ask is: is there any reason why other RSP customers couldn't take up the offer? If the answer is “yes”, it could be discriminatory – so check with the General Counsel's Office.

### **Example**

An RSP customer asks you to commit to a 2 hour provisioning service level (instead of the usual 4 hours). You decide to agree to the RSP customer's request, and make the same 2 hour provisioning service level available to all RSP customers. You have discussed the proposal with other RSP customers, and they are keen to take it up. You have confirmed that there's nothing that would stop any RSP customer taking up the offer. This shouldn't be discriminatory.

If there is some reason you couldn't do the same thing for any RSP customer, but you still want to do something different for one RSP customer (or a group of RSP customers), talk to the General Counsel's Office first. There are some limited circumstances where it will be okay to treat two RSP customers differently. This requires us to assess whether there is an objective justification for the difference, and whether the difference could harm competition.

### ***Are there any other situations where we can treat RSP customers differently?***

The Deeds include some specific examples of when Chorus can treat RSP customers differently without breaching the non-discrimination rules. For example, if our UFB or RBI contracts with the Government require us to do something different for certain RSP customers, this difference is consistent with our non-discrimination requirements. If you think that something you are doing might fall within one of these scenarios covered by the Deeds, please check with the General Counsel's Office first.

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## Equivalence of Inputs

Equivalence of Inputs (EOI) applies to a smaller number of Chorus services:

- UCLL (including UCLL co-location and backhaul) – which is the copper access service between the end consumer premises and the exchange, plus any co-location and backhaul;
- SLU (including SLU co-location and backhaul) – which is the copper access between the end consumer premises and the cabinet, plus any co-location and backhaul; and
- To some fibre services from 2020 and UFB2 services from 2026. Chorus' UFB agreements with the Government require it to design and build its network in a way that achieves these outcomes.

### ***How do I make sure I act consistently with EOI?***

EOI means that we need to deliver the same EOI service to our RSP customers and ourselves:

- On the same timescales;
- On the same terms and conditions, including price and service levels; and
- Using the same systems and processes (and RSP customers need to be able to use these systems and processes in the same way as us, with the same degree of reliability and performance).

There are also some rules relating to use of certain information, which we cover in the next section.

### ***We need to build UBA without POTS using EOI services***

EOI also means that we need to build our own Chorus UBA without POTS service using the same UCLL and SLU services that all of our RSP customers take, using the same systems and processes.

There are some exceptions to this because Chorus doesn't have separate business units. This means Chorus is not required to do the same internal ordering, charging or billing as other RSP customers when Chorus uses UCLL or SLU as an input into UBA without POTS. However, Chorus is still required to use the same procedures as other RSP customers for all other matters not related to ordering, charging or billing (for example, inventory maintenance, scheduling and managing workforce and network provisioning).

#### **Top Tip**

Chorus does not have to have separate business units. But we still need to meet our EOI and certain information sharing requirements.

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### ***What if an RSP customer asks for something different?***

RSP customers will ask for different things sometimes. The fact that they make these requests doesn't change our approach to open access or permit non-compliance with our commitments.

With EOI, there is less scope to do different things for different RSP customers. So please talk to the General Counsel's Office if you want to do something different for an RSP customer in relation to a UCLL or SLU service (or Dark Fibre Access from 2020 and 2026 for UFB2 services).



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## 3. MANAGING COMMERCIAL AND CONFIDENTIAL INFORMATION

The Deeds include certain rules around how we treat Commercial Information about services and how we treat our RSP customers' Confidential Information. The way we share information goes to us being an open access wholesaler.

This Code of Conduct provides a summary of Chorus' obligations, but a more detailed description of what you need to know can be found in the Chorus Information Control Policy.

### **Chorus Commercial Information.**

There are two key rules relating to Commercial Information:

- How we supply Commercial Information to our RSP customers; and
- How we supply and use Commercial Information about Layer 1 services for the development of Layer 2 products within Chorus.

### ***What is Commercial Information?***

Chorus Commercial Information is confidential information about a Chorus service that relates to:

- Network coverage
- Service development
- Pricing
- Marketing strategy and intelligence
- Service launch dates
- Costs
- Projected sales volumes
- Network and capabilities

If the information is public, or is more than 18 months old, it's not considered to be Commercial Information for the purposes of the deed (but it might still be confidential to Chorus for other purposes, even if it's more than 18 months old)

### ***Supplying Commercial Information to external RSP customers***

Chorus needs to make Commercial Information about its services available to all RSP customers on a non-discriminatory or equivalent basis. This means that if you provide Commercial Information to one RSP customer, you need to make sure it is supplied to or made available to all RSP customers on an equal basis.

For example, if we are about to launch a new product, we need to make sure that all of our RSP customers know about it at the same time. This is so that all of our RSP customers are in the same position to start buying and using those services.

### ***Managing sharing of Commercial Information internally***

Some of our RSP customers may want to compete with our Layer 2 services by using our Layer 1 services to build their own offers. We need to make sure that

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we share and use Commercial Information about Layer 1 services within Chorus in a way that ensures Chorus does not get an unfair advantage when competing for Layer 2 RSP customers.

This means if we have Commercial Information about a Layer 1 service that we haven't told our RSP customers, we can't use that Commercial Information to start developing Layer 2 products.

For example, if we are about to launch a new Layer 1 service, we can't start building a new Layer 2 service using that input until all of our RSP customers know about the Layer 1 service. This is because our RSP customers might want to compete with us by using the Layer 1 service to build their own Layer 2 product.

**Example:**

You find out that Chorus is planning to offer a new addition to a Layer 1 service. That addition opens up the possibility for some new Layer 2 services and you would like to start work on feasibility and design for these services. You cannot start this work until all of Chorus' RSP customers know about the new Layer 1 service. You could encourage the person in charge of the Layer 1 addition to release the information to Chorus RSP customers so you can start work on new Layer 2 products, but you must not start work until you know that the information has been released.

### **Chorus RSP customer Confidential Information**

Protecting our RSP customers' information is what a good wholesaler should do. Our contracts with RSP customers reflect this and so do the Deeds.

There are two rules relating to RSP customer Confidential Information (CCI):

- We can't disclose CCI outside of Chorus unless we have the RSP customer's permission; and
- We need to treat CCI in a way that is consistent with our RSP customer contracts.

#### ***What is CCI?***

CCI is information that Chorus holds relating to an RSP customer (or their end consumer) that is confidential to that RSP customer.

#### ***Don't disclose CCI outside Chorus***

The rule is simple – don't disclose CCI outside of Chorus without the RSP customer's permission. For example, don't disclose CCI about one RSP customer to another RSP customer.

#### ***Using CCI within Chorus***

Chorus' obligations with respect to CCI are contained in Chorus' agreements to supply services to RSP customers and in Standard Terms Determinations, where applicable. But the Deeds require us to comply with these agreements (and also give RSP customers the option of asking that the default rules in the Deeds apply).

The rules vary between different agreements – so always check the agreements. But a common rule in our agreements with RSP customers is that we can't use

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CCI for sales and marketing purposes. This means that we can't use CCI about a Layer 1 service for the purpose of sales and marketing of a Layer 2 service.

For example, if we have confidential information that an RSP customer is about to launch a new bitstream product in Wellington using our dark fibre access service, we can't use that information to launch a new special price for our own bitstream service in Wellington.

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## 4. OTHER REQUIREMENTS

### **Demonstrating our compliance with the Deeds**

There are a number of things that we need to do to help demonstrate that we have complied with the Deeds. These include:

- Publishing reference offer terms for the services we offer (including any variations or additions to these offers);
- Disclosing any material breaches to the Commission as soon as possible, and reporting other non-material breaches to the Commission quarterly;
- Responding to requests for information from the Commission where the Commission believes there has been a breach;
- Annual certification from the Board that Chorus has complied with the Deeds;
- If Chorus prices below the UFB or standard terms determination price caps, certain reporting requirements apply;
- Annual training and an annual survey for all Chorus employees on the Deeds;
- Implementing an information control policy;
- KPI reporting;
- Regular meetings with the Commission to discuss our compliance with the Deeds; and
- Internal audit requirements.

If you receive a request for information about Chorus' compliance with the Deeds from an RSP customer or the Commerce Commission, please talk to the General Counsel's Office first.

### **Business Line Restrictions**

Chorus is a wholesale business. There are restrictions on Chorus selling retail services and selling services directly to end consumers. You can find more information about this on the Compliance intranet page.

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## 5. CHORUS' ONGOING RELATIONSHIP WITH SPARK

Chorus is a dual listed company that supplies wholesale open access services to many RSP customers. One of those RSP customers is Spark. Chorus needs to treat Spark in the same way as it would treat any other RSP customer – applying the same non-discrimination, EOI and information sharing rules that apply to all of our RSP customers.

However, there are certain things that mean we have a special ongoing relationship with Spark – for example, Spark continues to manage some of the systems that are used by Chorus to deliver its services. These activities are now governed by enforceable commercial agreements (known as the Sharing Arrangements).

If Chorus needs to provide Commercial Information or Customer Information to Spark under a Sharing Arrangement (for example, because of Spark's role managing certain Chorus systems) this is not a breach of the Deeds. The Sharing Arrangements include certain rules to help ensure Spark does not get an unfair advantage – including limiting who within Spark can see that information.

However, it's important to remember that if you provide Commercial Information to Spark as a *customer* (i.e. not related to a Sharing Arrangement), then you will need to disclose that information to all other RSP customers.

## 6. WHERE TO GO TO GET MORE HELP

Chorus is committed to being an open access wholesaler, so it is important that we all understand what we can and can't do in our day-to-day jobs under the Deeds. There are consequences if we don't comply.

If you have a question, or you're not sure whether something you want to do complies with the Deeds – please ask your People Leader or the General Counsel's Office. They are here to help.

### **What are the consequences if we don't comply?**

If Chorus breaches the Deeds, there are a number of potential consequences:

- It will harm our reputation with RSP customers and the rest of the industry (including the Commerce Commission);
- Chorus could face significant fines – up to \$10m for each breach, and \$500k per day if the breach continues.

## 7. WHAT DO YOU DO IF YOU THINK YOU'VE MADE A MISTAKE?

Firstly, don't panic. Make a submission into Stay in Tune and the Chorus Compliance Manager will be in touch to work through the issue with you.

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If you think you have made a mistake it's important that we're honest, up front and open in relation to these matters so don't hesitate in lodging a submission. This will allow us to look into things and sort them out quickly and efficiently.