

Submission on Section 30R Reviews of Seven regulated telecommunications services' STD Price Lists

28 April 2017



**500,000+ customers could upgrade to
Chorus fibre or VDSL where fibre isn't available**

OUR SUBMISSION

Introduction and summary

1. This is Chorus' submission on the Commerce Commission's *Section 30R Reviews of seven regulated telecommunications services' Standard Terms Determinations (STDs) Price Lists* released on 10 April 2017.
2. We support the Commission's objectives of:
 - improving consistency and usability of the Price Lists;
 - ensuring that the STDs accurately reflect recent pricing and section 30R reviews as well as the most recent annual price adjustments; and
 - improving the efficiency of the annual price adjustment processes.
3. We generally agree that the Commission's draft amendments to the Price Lists of the seven STDs achieve this. To better achieve the objectives of the review and the Telecommunications Act 2001, we think that the Commission can go further in relation to the alignment of cost indices used in the annual adjustment, and in enhancing the efficiency of the annual price adjustment mechanism. We also have a small number of specific drafting suggestions for specific Service Components.
4. We note that the Commission's proposed amendments relate to implementing decisions that have previously been made, and to making consequential alignment, drafting and process amendments. We have restricted our comments accordingly and expect that any submissions that go beyond the scope of the current reviews will not be considered by the Commission in this process.¹

Alignment of indices

5. We agree that the Commission should align the Labour Cost Index (**LCI**) used to annually adjust prices between those STDs based on an initial pricing principle and those STDs based on the final pricing principle (**FPP**). We agree that an "all industries" index is appropriate but propose that the Commission adopt SG41Z9 (which excludes public sector wages) rather than the index adopted in the UCLL and UBA FPP determinations (which includes these wages).
6. An LCI that excludes public sector wages more accurately reflects movements in Chorus' actual labour costs. While Chorus' labour costs extend beyond those relating to the telecommunications industry only, as recognised in the FPP determinations, they do not include public sector wages.

¹ For example, we don't think this review should be used as an opportunity to try to align legitimate price differences across the STDs arising from the different IPP or FPP methodologies upon which they are based.

7. While this would require the Commission to adopt a different LCI than adopted in the FPP determinations, the particular choice of an “all-industries” LCI was not a focus of the FPP determinations and the choice of a different index is not inconsistent with the Commission’s essential reasoning. The LCI used to adjust non-recurring charges also does not affect the underlying logic of the recurring prices determined by the FPP determinations. The question of which all-industries LCI ought to apply to non-recurring charges was never considered in the FPP determinations. Instead, the focus of the discussion was whether an all-industries or a telecommunications specific index should be used. In NZIER’s discussion of this question, it proposed an all-industries index (in footnote 30) that included public sector costs. The Commission determined that an all-industries index would reflect Chorus’ actual labour costs better than a telecommunications-only index, without considering the particular index to give effect to this.
8. A private sector all-industries index is therefore consistent with the Commission’s determination, and with its reasoning that the index used should reflect changes to Chorus’ actual costs. It is also consistent with the Commission’s approach in the initial pricing principle determinations, where a private sector-only Communications Services industry LCI (LCIQ.SE49J9) was used.
9. In determining recurring charges in the FPP determinations, various indices were suggested by NZIER and TERA to account for labour costs.² After considering different LCIs, which both included and excluded public sector costs, TERA ultimately settled on using CPI to account for movements in the price level over time. The choice of LCI index therefore does not require the Commission to reconsider its model for non-recurring charges.

Timeline for annual price adjustments

10. We agree that a standardised process for annual adjustments for non-recurring charges should apply across all the STD Price Lists. We’ve set out below our proposal for an efficient process which aligns all price adjustments to one date, and allows sufficient time for Chorus and the Commission to calculate, review and implement price changes by that date.
11. In our view the adjustment process should meet the following criteria:
 - It should promote certainty and simplification of the process by providing for all annual adjustments to be implemented on a single date. This will be more efficient for Chorus and RSPs, in terms of financial forecasting, system changes and price updates. We suggest that adjustments for non-recurring charges be aligned with the pricing year for recurring charges under the UCLL and UBA FPP determinations; this will entail an implementation date of 16 December for all adjustments. Aiming for this date also ideally enables adjustments to be implemented prior to the industry Christmas shut-down period;³ and

² UCLL FPP Determination at [I11]-[I13].

³ The process timeframes will need to align with Spark’s Christmas closure period given that implementation of the pricing adjustments requires Spark’s assistance, in accordance with the Chorus/Spark arrangements relating to shared systems.

- It should allow sufficient time between Commission approval of the proposed adjustments and their effective date, for Chorus to undertake the work necessary to activate the adjusted charge. Activation requires us to make significant changes to price points in our systems, test these, implement them and communicate those changes to customers. Insufficient time between the approval and implementation dates will require us to undertake complex back-dating if the systems changes can't be made prior to the price change becoming effective. We note that the annual regulatory adjustments also affect the pricing of some of Chorus' commercial services.
12. The Commission's proposal that a June index number is used is helpful. This means that there should be sufficient time between the publication of the June index (generally around August) and the prices becoming active in December, to enable an orderly calculation, approval and implementation process.
13. We propose the following additional changes to the draft adjustment mechanism, to best ensure that the adjustment process meets the criteria above:
- As June indexes are to be used, we think that it's likely to be feasible for us to complete the calculation of any adjustments prior to 1 November. The adjustment mechanism should allow for this;
 - At the same time as we propose the price adjustments, we suggest that we also propose a date to activate the relevant charges (the Implementation Date) for the Commission's approval. At this stage we think 16 December is the most efficient implementation date, but we suggest the Commission is given a discretion to consider whether RSPs have sufficient notice of the changes in any particular year, or any other factors which may make an alternative date more appropriate in a particular year;
 - We suggest that the Commission be required to approve (or decline) the proposed adjustments and implementation date at least twenty working days before the proposed implementation date. Based on our experience, this will give us sufficient time to activate the proposed price changes prior to the implementation date.
14. We note that the Commission's proposed drafting of the price adjustment mechanism requires Chorus to activate its prices within 30 working days of their approval. However, paragraph 12.2.4 of the Commission's paper indicates that Chorus should allow 30 working days from approval prior to activating the adjusted charges. Both of these options are feasible but they don't necessarily ensure that all price changes will align to 16 December. We think that our proposed drafting set out in the Appendix addresses the issue of timeframes following Commission approval, and meets our shared objective of an efficient process.

Other minor amendments

15. In our review of the proposed amendments to the STD Price Lists we have identified a small number of drafting issues where the amendments either could be clarified, contain typographical errors or, in one case, do not reflect the best approach to achieving consistency between two STDs. We set out these in the table **below**.

STD	Service Component	Comment
UBA, UCLL and UCLFS STD	All Recurring Charges	The pricing year for each recurring charge is not defined. To accurately reflect the FPP determinations, "Year" should be defined as a year commencing on 16 December.
UCLL and UCLFS Colocation	1.18	Price per additional 16 pair multiple should be \$409.94 per 2016 Price Adjustments.
UCLL and UCLFS Colocation	2.2	Rural Exchange should be \$920.47 per 2016 Price Adjustments.
SLU Colocation UCLL Colocation	1.6/1.7/1.16 1.7 and 1.15	<p>SLU Colocation Service Components are no longer subject to a price change mechanism where previously this was the case.</p> <p>It appears that this may be the result of standardisation with the UCLL Colocation equivalent Service Components, for which there has never been an adjustment.</p> <p>For SLU Colocation Service Components 1.6 and 1.7, this is contrary to <i>Decision 672</i> at [564] – [565]. There the Commission specifically noted that the absence of a price adjustment mechanism in the UCLL Colocation for the equivalent Service Components had not been brought to its attention and that an adjustment was appropriate. Accordingly, if consistency is to be achieved (which we think is a good idea) the adjustments to SLU Colocation Service Components should be restored and UCLL Colocation Service Component 1.7 should be amended to provide for an adjustment.</p> <p>Both Service Components were adjusted based on changes in Chorus costs (previously cl 4.1(c)). This adjustment mechanism has been deleted from the revised STD Price List. We think it should be restored for the SLU Colocation and UCLL Colocation STD, even though this is a mechanism that is not used for the other STD, because it enables adjustment of these security-related costs based</p>

STD	Service Component	Comment
		<p>on underlying third party charges which are not contained in service company contracts.</p> <p>For SLU Colocation Service Component 1.16, we have been unable to locate anything in the earlier determinations that explains the discrepancy between the SLU and UCLL Colocation Service Components. However, as with the other Service Components, the SLU Colocation STD represents the more correct position.</p> <p>The previous adjustment of SLU Colocation Service Component 1.16 was based on service company costs. However, as with other security costs this is not correct as the third party charges are not contained in service company costs. We suggest that this Service Component and UCLL Colocation Service Component 1.15 should be linked to Chorus costs (as in cl 4.1(c) of the SLU Colocation STD).</p>

Appendix – suggested amendments to adjustment process

Note: Proposed Changes (marked up **highlighted**) are shown to the UBA STD Price List.

3 Adjustment to Charges

3.1 Chorus must, subject to the approval of the Commission, pass through changes in costs by increasing or decreasing Prices as follows:

3.1.1 Each year, on **or before** 1 November, Chorus must calculate adjustments to the Prices relating to those Service Components where this clause is the prescribed Price Change Mechanism below. Those adjustments must be by an amount equivalent to the percentage change (up or down) for the previous year in the Labour Cost Index (**Private sector, Salary and Ordinary Time Wage Rates, All industries combined**) Series Reference LCIQ **SG41Z9** as published by Statistics New Zealand, or such successor index as may be designated by Statistics New Zealand from time-to-time.

For the purpose of this clause 3.1.1 the annual percentage change between the previous year's June index number and the current year's June index number must be used.

3.1.2 When adjusting Prices under clause 3.1.1, Chorus must review all Service Components which are POA and calculate a fixed Price where this is practicable.

3.2 Once an adjustment or new fixed Price has been calculated under clause 3.1, Chorus must give notice to the Commission of the adjustment. The notice must include:

3.2.1 the figures used in the calculation for the adjustment;

3.2.2 the calculations undertaken for the adjustment;

3.2.3 a description of the adjustment made;

3.2.3 the reasons for the increase or decrease; and

3.2.4 **a proposed date on which the new Charges arising from the adjustment are to be activated which, if not specified, will be 16 December (**Implementation Date**).**

3.3 The Commission must approve or decline an adjustment and Implementation Date notified by Chorus under clause 3.2 at least twenty Working Days prior to the proposed Implementation Date.

3.4 After an adjustment **and Implementation Date** has been approved by the Commission, Chorus must:

3.3.1 notify Access Seekers of the adjustment; and then,

3.3.2 activate the new Charge arising from the adjustment in its billing systems by the Implementation Date.