

# CallPlus Limited

## Cross Submission on the Commerce Commission's Further Draft Pricing Review determinations for UBA and UCLL services

### Public Version

24th September 2015



## Overview

1. This cross-submission is made by CallPlus, part of the M2 Group and the third largest fixed line carrier in New Zealand operating a number of brands in the retail and wholesale market including Slingshot, Flip, Orcon and 2Talk. We thank you for the opportunity to comment on the Commissions draft determination.
2. CallPlus supports the cross-submissions made by Wigley & Company which deals with specific points in more detail.
3. CallPlus would like to take this opportunity to express our disappointment that there appears to have been very little consideration throughout the process given to our investment in unbundling (which is material for CallPlus), the impact on our business as a result of proposed increases in UCLL prices and the impact on competitive landscape and ultimately consumers.
4. Previously the Commission has on many occasions recognised the importance of unbundlers to competition and consumers, however throughout the FPP the impact on our investments has been largely ignored.
5. We are reiterating points we have already made because to date we have largely had no indication whether the Commission accepts or rejects these or even considers them relevant. In our view investments in unbundling appear to be being treated as collateral damage in the move to protect fibre investors.
6. As we have previously submitted CallPlus has made a significant investment in a national unbundled network. This is not just investments in MSANs but core network enhancement in terms of capability, reach and capacity.
7. We are the largest unbundler having deployed over 200 exchanges across the country, deploying equipment deep in Chorus' copper network, investing in co-location, switching equipment, national backhaul (including volume commitments), caching and other network elements to support a sizeable national network which can directly reach over 50% of the lines in New Zealand. This investment is critical to our ability to deliver compelling copper AND fibre services (as evidenced by our growth to date).

## **Unbundlers face a price increase that a reasonable investor couldn't have foreseen**

8. At the time we built that network we could reasonably expect our underlying layer 1 cost with Chorus to have increased in December to \$23.52 as a result of the changes to the Telco Act. The Government gave a 3 year transition period to allow unbundlers to adjust to the impact of averaging in the same way the government froze declining UBA prices to allow Chorus to adjust to anticipated decreases in UBA uplift.
9. No reasonable investor in unbundling at the time we expanded the network could have expected that Chorus would apply for an FPP, a first for NZ, and that as a result the Commissions 1<sup>st</sup> draft FPP would further increase the cost of UCLL by a further \$4.70 per month per line.

### **Investors in unbundling are being disadvantaged verses non unbundlers.**

10. The Commission's decision to further increase the UCLL price at the same time that UBA prices dropped significantly disadvantages unbundlers. It is disingenuous for some parties to say that "we all pay the same". As we submitted the fact is that unbundlers will be significantly disadvantaged when providing a voice and broadband bundle: -

- Unbundlers will pay a \$4.70 increase on every unbundled line (1st FPP averaged price) over and above the expected price of \$23.52 at the time of the changes to the Act.
- Non-unbundlers will pay prices (when connection costs are factored in) slightly less than they were before the 2011 price freeze as submitted by Spark and ourselves.

11. Everyone is treated the same, BUT the impact on is not the same on everyone! Throughout this process we are not even sure if this simple fact has been acknowledged

### **Investor can reasonably expect some certainty?**

12. If the Commission accepts that : -

- Investors in unbundling couldn't have reasonably foreseen the UCLL increase and
- The UCLL increase disadvantages unbundlers competitively and.
- Investors should be able to expect some predictability

13. Then surely the Commission would at very least consider some form of glide path to allow the unbundling Investor time to adjust? After all there are precedents - MTAS provided glide paths, the Government gave parties 3 years to adjust to the impact of averaging and the move to cost based.

14. In fact there has been no debate or even a suggestion of consideration being given to glide paths to provide some certainty for investments in unbundling and time to adjust

15. In fact the reverse, one Commissioner wants to backdate the increase to December 2014.

### **Summary**

16. CallPlus is not standing 'king canute like' against the tide of fibre – in fact we are one of the leading RSP in fibre take-up and promotions such as Gigatown.

17. We are just asking for the same thing Chorus is asking for – some consideration to be given to our investments. Despite submitting on these points multiple time we are frustrated by the lack of any type of response to the issues and the apparent single minded focus on Chorus' investments & fibre.

18. In the absence of any material change in the FPP pricing we again ask the Commission to give consideration to some form of glide path from Dec 2015 to provide some investor stability and certainty.