



Draft Cost Calculation Determination for the Telecommunications Relay Services TSO Instrument for the period between 1 July 2012 and 30 June 2013

The Commission:

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List of defined terms and abbreviations

| | |
|---------------------|--|
| CapTel | Captioned Telephone service. |
| Deed | TSO deed for TRS between the Crown and Sprint dated 7 July 2011 (including Addendum One, dated 27 September 2011). |
| MRC | Monthly recurring charge. |
| Sprint | Sprint International New Zealand. |
| SQM | Service quality measure. |
| TDL | Telecommunications Development Levy. |
| TRS | Telecommunications Relay Services as described in the TSO TRS deed. |
| TRS provider | Sprint, the telecommunications relay service provider. |
| TSO | Telecommunications Service Obligations. |
| TSO period | 1 July 2012 to 30 June 2013, the period to which this determination applies. |
| TSO provider | Telecommunications Service Obligations provider. |

Executive summary

1. This draft cost calculation determination (draft determination) is required under section 94F of the Telecommunications Act 2001 (Act) and relates to the Telecommunications Service Obligations (TSO) for Telecommunications Relay Services (TRS) for the period 1 July 2012 to 30 June 2013.
2. Sprint International New Zealand (Sprint) provides relay services under a deed to meet the telephone communication needs of Deaf, deafblind, hearing impaired, and speech impaired people. Sprint is compensated for the provision of the relay services by the Crown.
3. The relevant deed for the purpose of this draft determination was entered into by Sprint and the Crown on 7 July 2011, and amended by an addendum signed on 27 September 2011. It is a TSO instrument under section 70 of the Act.
4. This draft determination sets out the specified amount¹ payable by the Crown to Sprint for the 2012/13 TSO TRS under the deed and provides information relating to the calculation of that amount.
5. The Commerce Commission (Commission) has determined that the cost for the TRS service for this TSO period is \$1,759,387.14.

Background

6. The Act regulates the supply of telecommunications services in New Zealand.
7. Under subpart 2A of Part 3 of the Act, the Commission is required to produce a cost calculation determination for the deed.
8. This document is the draft determination made under section 94F of the Act, in respect of the deed, for the TSO period 1 July 2012 to 30 June 2013.
9. The closing date for submissions on this draft determination is 5pm, 15 November 2013. Submissions should be sent by email to: ben.oakley@comcom.govt.nz.
10. This draft determination does not include any confidential material.

Cost calculation for the TSO TRS

11. The deed requires the TRS provider to:
 - 11.1 provide a range of conventional relay services including text-to-voice conversation, voice-to-text conversation, and speech-to-speech relay; and meet the following service quality measures (SQMs):²

¹ Section 94G(b) of the Act.

² Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 1, Services Description.

11.1.1 speed of answer for ordinary (non-emergency) calls; and

11.1.2 call congestion for ordinary (non-emergency) calls.

12. The deed also requires the TRS provider to meet SQMs regarding the Captioned Telephone (CapTel) service. However, measurement of these SQMs will not commence until the first quarter following the initial 12 months of the service's operation.³ The service start date for CapTel was 1 March 2013.⁴
13. Schedule 2 of the deed details a specified amount, calculated as the sum of an annual fixed charge and an annual variable charge.
14. The total amount payable to Sprint is the specified amount, less any performance rebate calculated in accordance with the deed.
15. Clause 8.3 of the deed requires the TRS provider to supply an annual report on each financial year to the Crown and to the Commission. The annual report must include total billable minutes and service quality performance measures, which are used for this draft determination.
16. All charges listed in this draft determination exclude GST.

Fixed charges

17. The annual fixed charge for conventional relay services for this TSO period is \$148,748. The fixed charges under Schedule 2 of the deed are shown in Table 1, in Appendix 1 of this draft determination.
18. The fixed charge for the CapTel service for this TSO period is \$200,000. Table 2 (Year 2) in Appendix 1 of this draft determination, taken from Schedule 2 of the deed, shows an annual fixed charge of \$600,000. However, Sprint will only receive four months of this fixed charge because CapTel was only introduced on 1 March 2013.
19. The combined annual fixed charge for this TSO period is therefore, \$348,748.

Variable charges

20. The annual variable charge for each financial year is calculated by adding together the traffic charge and any activity charge specified in Schedule 2 of the deed. There were no activity charges for this TSO period.
21. The traffic charge is derived by adding together the total call charges for each month of the financial year. The total call charge for a month is derived by multiplying the chargeable call volume (in whole minutes) for the month by the applicable per minute charge.

³ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 3, Specified Service Quality Measures.

⁴ www.captel.co.nz.

22. The chargeable call volume is the aggregate of the duration in seconds (without any session level rounding) recorded for all relay calls in the month, converted to whole minutes. The duration of a relay call is the relay session time measured in seconds from when the incoming call to the TRS system is answered until the incoming call is released by the TRS system.

Variable charges price adjustment formula

23. Schedule 2 of the deed also includes a price adjustment formula, which is applied for the first time in this draft determination. The per minute traffic charges are adjusted in accordance with the Statistics New Zealand Producer Price Index, Telecommunications, Internet and Library Services.
24. The price adjustment formula for this draft determination uses the average index for June 2011, September 2011, December 2011, and March 2012, with a base index of March 2010:⁵

$$\text{Adjustment multiplier 2012} = \frac{(\text{Jun 2011} + \text{Sep 2011} + \text{Dec 2011} + \text{March 2012})/4}{\text{March 2010}}$$

25. This equates to an adjustment multiplier of 0.91, as can be seen below. The multiplier is then applied to the per minute traffic charges listed in Schedule 2 of the deed to create a new set of 2012/13 charges for conventional relay services and the CapTel service. These can be seen in Table 3 and Table 4, below.

$$\text{Adjustment multiplier 2012} = \frac{(962 + 936 + 914 + 911)/4}{1023}$$

$$= 0.91$$

Table 3 – Variable cost schedule (conventional relay services)

| Monthly call minute volume | Charge per call minute (\$) (30 Sep 2011 - 30 Jun 2012) | Charge per call minute (\$) (1 Jul 2012 - 30 Jun 2013) |
|----------------------------|---|--|
| 0-20,000 | 8.00 | 7.28 |
| 20,001-40,000 | 5.11 | 4.65 |
| 40,001-60,000 | 4.05 | 3.68 |
| 60,001+ | 3.70 | 3.37 |

⁵ The adjustment multiplier formula is taken from the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 2, Annual Variable Charge.

Table 4 – Variable cost schedule (CapTel service)

| Monthly call minute volume | Charge per call minute (\$) (30 Sep 2011 - 30 Jun 2012) | Charge per call minute (\$) (1 Jul 2012 - 30 Jun 2013) |
|----------------------------|---|--|
| 12,500+ | 2.10 | 1.91 |

Specified amount

26. Table 5 shows the total cost calculation for the 2012/13 conventional relay services, based on the fixed charge outlined in paragraph 17, the traffic charges listed in Table 3, and the chargeable minutes for each month.

Table 5 – Total financial charges for conventional relay services

| Month | Total billable mins | Price per min (\$) | Variable charge (\$) | Fixed charge (\$) | Total amount due (\$) |
|---------------|---------------------|--------------------|-----------------------|---------------------|-----------------------|
| Jul-12 | 25,339 | 4.65 | 117,826.35 | 12,395.67 | 130,222.02 |
| Aug-12 | 23,686 | 4.65 | 110,139.90 | 12,395.67 | 122,535.57 |
| Sep-12 | 22,729 | 4.65 | 105,689.85 | 12,395.67 | 118,085.52 |
| Oct-12 | 23,831 | 4.65 | 110,814.15 | 12,395.67 | 123,209.82 |
| Nov-12 | 25,438 | 4.65 | 118,286.70 | 12,395.67 | 130,682.37 |
| Dec-12 | 23,872 | 4.65 | 111,004.80 | 12,395.67 | 123,400.47 |
| Jan-13 | 23,792 | 4.65 | 110,632.80 | 12,395.67 | 123,028.47 |
| Feb-13 | 23,081 | 4.65 | 107,326.65 | 12,395.67 | 119,722.32 |
| Mar-13 | 24,011 | 4.65 | 111,651.15 | 12,395.67 | 124,046.82 |
| Apr-13 | 24,617 | 4.65 | 114,469.05 | 12,395.67 | 126,864.72 |
| May-13 | 25,642 | 4.65 | 119,235.30 | 12,395.67 | 131,630.97 |
| Jun-13 | 24,274 | 4.65 | 112,874.10 | 12,395.67 | 125,269.77 |
| Totals | 290,312 | | \$1,349,950.80 | \$148,748.00 | \$1,498,698.80 |

27. The monthly fixed charge in Table 5 is calculated by dividing the annual fixed charge of \$148,748 by 12 and is rounded to two decimal points.
28. Table 6 shows the total cost calculation for the 2012/13 CapTel service, based on the fixed charge outlined in paragraph 18, the traffic charge listed in Table 4, and the chargeable minutes for each month.

Table 6 – Total financial charges for the CapTel service

| Month | Billable mins > 12,500 | Price per min (\$) | Variable charge (\$) | Fixed charge (\$) | Total amount due (\$) |
|---------------|------------------------|--------------------|----------------------|---------------------|-----------------------|
| Mar-13 | 0 | 1.91 | 0.00 | 50,000.00 | 50,000.00 |
| Apr-13 | 7,251 | 1.91 | 13,849.41 | 50,000.00 | 63,849.41 |
| May-13 | 12,365 | 1.91 | 23,617.15 | 50,000.00 | 73,617.15 |
| Jun-13 | 12,158 | 1.91 | 23,221.78 | 50,000.00 | 73,221.78 |
| Totals | 31,774 | | \$60,688.34 | \$200,000.00 | \$260,688.34 |

29. Only billable CapTel minutes over 12,500 contribute to the variable charge.
30. The combined variable charge for conventional relay services and CapTel is \$1,410,639.14.

31. The specified amount⁶ for this TSO period is the total fixed charge (fixed charge for conventional relay services plus fixed charge for CapTel service) plus the total variable charge (variable charge for conventional relay services plus variable charge for CapTel service), which is \$1,759,387.14.

Performance rebate

32. A performance rebate (referred to in section 94G(c) and section 94K(1)(c) of the Act) may be set as part of the draft determination. The rebate constitutes the reduction (if any) in the amount that the TSO provider would receive from the Crown if its service performance does not comply with the deed.
33. The performance rebate, described in Schedule 2 of the deed, takes account of two categories of compliance assessment: service availability and service quality. The performance rebate is calculated by identifying the applicable discounts (if any) for each category and then subtracting them from the specified amount.⁷
34. The service availability discount would have applied if the conventional TRS launch was delayed beyond 1 October 2011. As the conventional TRS was launched on time, in 2011, the service availability discount does not apply for this TSO period. The deed does not specifically mention a service availability discount for the CapTel service, so it has not been assessed as part of this draft determination.
35. Sprint has complied with both of the applicable SQMs in the deed as listed in paragraph 11 of this draft determination. As mentioned in paragraph 12, the CapTel SQMs will not be assessed until the first quarter following the initial 12 months of this service's operation.
36. Therefore, there is no performance rebate for this TSO period.

Summary

37. This paper calculates the amount payable by the Crown to Sprint for the 2012/13 TSO TRS.
38. The total amount payable was calculated by adding the total annual fixed costs and variable costs for conventional relay services and the new Captioned Telephone service, using the charges set out in the deed. No performance rebates were deducted because Sprint met the required service quality measures.
39. The total annual fixed charge is \$348,748.
40. The total annual variable charge is \$1,410,639.14.
41. The total amount payable by the Crown to the TRS provider is **\$1,759,387.14**.

⁶ Section 94G(b) of the Act.

⁷ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 2, Performance Rebate.

Appendix 1 – fixed charges

Table 1 - Fixed Charges (GST exclusive)⁸

| | 30 Sep 2011 – 30 June 2012 | 1 July 2012 – 30 June 2013 | 1 July 2013 – 30 June 2014 ⁹ | 1 July 2014 – 30 June 2015 | 1 July 2015 – 30 June 2016 | 1 July 2016 – 30 June 2017 | 1 July 2017 – 30 June 2018 | 1 July 2018 – 20 June 2019 |
|---------------------|----------------------------------|----------------------------------|--|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Fixed Charge | \$145,120 | \$148,748 | \$152,467 | \$156,278 | \$160,185 | \$0 | \$0 | \$0 |

Table 2 – Fixed charges for the CapTel service¹⁰

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 |
|---------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Fixed Charge | \$360,000 | \$600,000 | \$615,000 | \$630,375 | \$646,134 | \$662,288 | \$678,845 | \$695,816 |

⁸ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 2, Annual Fixed Charge.

⁹ It is assumed that the dates for the third financial period in Table 1 should be 1 July 2013 – 30 June 2014 (incorrectly printed in the deed as 1 July 2014 – 30 June 2014).

¹⁰ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 7 July 2011, Schedule 2, Annual Fixed Charge.

Appendix 2 – legal framework

The framework for the determination

42. Part 3 of the Act facilitates the supply of certain telecommunications services to groups of end-users who may not otherwise be supplied those services on a commercial basis or at an affordable price.
43. Subpart 2A of Part 3 prescribes the annual procedures for determining the amounts payable by the Crown to the TRS provider in respect of its TSO instruments.
44. The Commission is required under section 93 to make an annual assessment of the TRS provider's compliance with its TSO instruments. Accordingly, the Commission must assess the TRS provider's compliance with the deed.
45. Section 94F relates to the preparation of a draft TSO cost calculation determination for the TRS and provides as follows:

94F Commission to prepare draft TSO cost calculation determination

- (1) The Commission must—
 - (a) prepare a draft TSO cost calculation determination in respect of each TSO instrument for each financial year; and
 - (b) give public notice of that draft determination; and
 - (c) include in the public notice the closing date for submissions, which must be not later than 20 working days after the date of giving public notice.
 - (2) The Commission must make reasonable efforts to do the things referred to in subsection (1) not later than 120 working days after the end of the financial year.
46. Section 94G sets out the matters that must be included in the Commission's draft TSO cost calculation determination for the TRS. As the deed includes a specified amount, the draft determination need only include the following matters set out under section 94G(b) to (e):

94G Matters to be included in draft TSO cost calculation determination

A draft TSO cost calculation determination must include,—...

- (b) if the TSO instrument contains a specified amount, the dollar amount of the specified amount and all material information that—
 - (i) relates to the calculation of that amount; and

- (ii) would not, in the opinion of the Commission, be likely to unreasonably prejudice the commercial position of the TSO provider; and
 - (c) the amount (if any) by which the total amount that the TSO provider would receive from the Crown in relation to the TSO instrument must be reduced because the TSO provider has not complied with the TSO instrument; and
 - (d) the methodology applied by the Commission in preparing the determination; and
 - (e) the reasons for the determination.
47. Section 94H of the Act requires the Commission to consider the steps taken (if any) by the TSO provider (including the TRS provider) to remedy any non-compliance with the TSO instrument. Section 94H provides as follows:

94H Requirements for draft TSO cost calculation determination

In preparing a draft TSO cost calculation determination of the matters referred to in section 94G(c), the Commission must consider the steps taken (if any) by the TSO provider to remedy any non-compliance by the TSO provider with the TSO instrument between the date the TSO provider was notified of the non-compliance under section 93(b) and the date that is 15 working days before public notice is given under section 94F(1)(b).

48. Section 94J set outs the requirements that the Commission must follow with respect to the preparation of the final TSO cost calculation determination for the TRS. Section 94J provides as follows:

94J Commission to prepare final TSO cost calculation determination

- (1) The Commission must—
 - (a) prepare a final TSO cost calculation determination; and
 - (b) give public notice of that final determination; and
 - (c) give a copy of that final determination to the Minister, all liable persons, and the TSO providers in relation to the TSO instrument.
- (2) The Commission must make reasonable efforts to do the things referred to in subsection (1) not later than 40 working days after the closing date for submissions specified in accordance with section 94F(1)(c).
- (3) This section is subject to sections 94 and 94C.

49. Section 94K sets out the matters that must be included in the Commission’s final TSO cost calculation determination for the TRS. As the deed includes a specified amount, the final determination need only include the following matters set out under section 94K(1)(b) to (g):

94K Matters to be included in final TSO cost calculation determination

- (1) A final TSO cost calculation determination must include,—
- (b) if the TSO instrument contains a specified amount, the dollar amount of the specified amount and all material information that—
 - (i) relates to the calculation of that amount; and
 - (ii) would not, in the opinion of the Commission, be likely to unreasonably prejudice the commercial position of the TSO provider; and
 - (c) the amount (if any) by which the total amount that the TSO provider would receive from the Crown in relation to the TSO instrument must be reduced because the TSO provider has not complied with the TSO instrument; and
 - (d) the amount payable by the Crown to the TSO provider in relation to the TSO instrument in respect of the financial year calculated—...
 - (ii) in the case of a TSO instrument that contains a specified amount, by subtracting the amount of the reduction (if any) referred to in paragraph (c) from the specified amount referred to in paragraph (b) ; and
 - (e) the amount payable by the Crown to the TSO provider in relation to the TSO instrument for the loss of use of the amount referred to in paragraph (d), calculated at the 90-day bank bill rate (as at the date of the final determination) for the period commencing from the end of the financial year and ending with the date of the final TSO cost calculation determination; and
 - (f) the methodology used by the Commission in preparing the determination; and
 - (g) the reasons for the determination.