



Katie Bhreatnach
Commerce Commission
By email: katie.bhreatnach@comcom.govt.nz

31 March 2015

Dear Katie

UBA and UCLL Draft FPP Review Cross-submission – CEG Uplift report

On our review of the cross submissions and expert reports filed with them, it has become evident to Spark that the CEG submission on behalf of Chorus entitled "Welfare effects of UCLL and UBA uplift" (**CEG submission**) constitutes a material new submission on matters not raised in any detail in previous submissions. We consider that in the circumstances it should either be disregarded as a cross-submission or be consulted upon separately.

If the Commission is minded to give weight to the CEG submission then it should first afford other Parties a reasonable opportunity to comment on it. You will appreciate that Parties to the FPP PRD would consider that a fundamental element of due process within this price review determination requires that they are afforded the opportunity to consider and comment on all material submissions.

We note that other Parties have recently raised various legal issues relating to the process by which the FPP PRD is being conducted. We support the principle that the Commission has a choice on whether to admit new material and in exercising its judgment to admit such material should weigh all relevant considerations.

In the circumstances, we consider it relevant first that the process is already complex, and subject to tight timeframes. Further, as the Commission is aware, consultant reports provided by a party generally require responses from other parties and from other consultants (most of which are based overseas). In this respect it is also pertinent that the costs of commissioning further consultant reports outside the Commission's process will not have been budgeted by Parties. Finally, we consider it relevant that the detailed and material nature of the CEG report is of such an extent that if it is admitted and considered by the Commission then other Parties would be materially prejudiced if they are not given a reasonable opportunity to also comment.

In the circumstances we consider that the Commission's judgment should be exercised in favour of excluding the CEG submission from the cross-submission process at this time, and no weight should be placed on its contents. We would invite you to clarify your position on this at an appropriate time.

Do not hesitate to contact us to discuss if required.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Sasha Daniels".

Sasha Daniels
Senior Counsel Competition & Regulation

Nominated Counsel, Spark New Zealand Trading Limited