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Dear Keston

Thank you for the opportunity to comment on submissions on the Commerce Commission's Process and Issues paper for determining a TSLRIC price for Chorus' unbundled bitstream access (UBA) service under the Final Pricing Principle. Chorus outlines its responses below.

Process and Timing

The submissions from Telecom, Vodafone and CallPlus start from a belief that the modelling required for the UBA price review process could only be completed by 30 November 2014 by compromising the quality of the model, or the consultation on the model, or both. However no evidence or expert opinion is given for this view.

The UBA price review modelling is very doable this year, without any compromise as to quality. For the reasons explained in our submission on the Commission's Process and Issues paper for determining a TSLRIC price for Chorus' unbundled copper local loop (UCLL) service in accordance with the Final Pricing Principle (TSLRIC Submission), the UCLL price review modelling can proceed in parallel and be completed by 30 November 2014.

Analysys Mason, on page 5 of the report attached to this submission, states:

In my view, completing a good quality UBA price review process by 30 November 2014 is achievable...We have already set out an approach whereby the UCLL FPP modelling can also be achieved in the same timescales.

The Modern Equivalent Asset (MEA)

Vodafone disagrees with the Commission's MEA proposal, and suggests that the Commission should build a single UCLL / UBA model using a fibre-to-the-premises network, with fixed wireless access for rural areas. Chorus disagrees with this suggestion.

First, the Act clearly intends that the Commission model a UBA MEA which uses copper network inputs. The UBA Final Pricing Principle (FPP) must then require DSL technology. In the attached report, Analysys Mason explains its view that the MEA requires DSL technology.

Second, relativity is a relevant consideration. As noted in our initial submission in this UBA process, we are keen to understand how the Commission is applying relativity in the current context and in the context of outcomes as proposed in its TSLRIC discussion papers. At this point we would simply note that, for the reasons given by the Commission, assuming the existing copper network inputs and modelling a UBA MEA capable of operating with those copper network inputs avoids introducing a competitive distortion between retail service providers (RSPs). Some RSPs will buy the existing

copper network inputs and invest in their own capability to deliver UBA services, and other RSPs will buy the UBA STD service from Chorus at the price set by the Commission. Vodafone's proposal would systematically advantage one set of RSPs over another. A way to be sure of avoiding that outcome is to use a UBA MEA capable of operating with current copper network inputs.

Third, it is not clear that Vodafone's proposed model can produce what is required by the FPP. To implement the FPP the Commission must be able to identify two separate pricing components:

- the price for Chorus' unbundled copper local loop network; plus
- the TSLRIC of additional costs incurred in providing the unbundled bitstream access service.

The brief description in Vodafone's submission suggests the model proposed by Vodafone would not facilitate the Commission identifying these separate pricing components.

Finally, we disagree with the proposal to use a single model for both services. In the attached report, Analysys Mason explains that modelling UBA separately from UCLL avoids a number of problems and can be simpler than a single model while still maintaining the required level of consistency with the UCLL model.

Modelling the additional costs of providing the UBA service

Telecom's submission briefly raises some questions about how the additional costs of providing the UBA STD service will be modelled – in particular the modelling of the transport capability from the local exchange to the first data switch and, related, the placement of DSLAM equipment in the network. However it is unclear exactly what Telecom is proposing. If Telecom is suggesting the Commission remodel the UCLL network and then calculate the additional costs of UBA over that different UCLL network, we do not agree. The FPP requires that the Commission start with the existing UCLL network and model the TSLRIC costs of the UBA service that are additional to that.

If Telecom is suggesting the Commission explore different ways in which the additional cost of UBA can be modelled, given the existing UCLL network as the starting point, then we make the following points (relying on the attached report from Analysys Mason):

- the Commission's model must be consistent with a hypothetical new entrant (HNE). That HNE will buy the UCLL and sub-loop UCLL (SLU) STD services as inputs and build the additional components required to supply the UBA STD service. As a result, the HNE must take the termination point of each UCLL and SLU line as a given;
- if the Commission accepts Telecom's arguments on cabinetisation, then it will be implicitly deciding to model a service that does not deliver the existing UBA network coverage or speeds, because cabinetisation has improved both coverage and linespeed. We note that Telecom's arguments in this regard are inconsistent with its suggestion in its UBA FPP application that the Commission should set a price based on the higher specification service that Chorus actually delivers (as opposed to the STD service). As noted in our initial UBA submission, the Commission was explicit in the UBA IPP determination that it has benchmarked the STD service, and we assume that the Commission is proceeding on the same basis now; and

- existing node locations are likely to be efficient since DSL technology has itself been optimised to deliver services over typical line lengths and the placement of existing cabinets was optimised for ADSL technology.

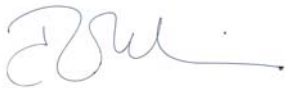
Telecom's arguments about moving the location of the first data switch are inconsistent with the definition of the UBA STD service that is the subject of this price review. The UBA STD service describes a service that allows RSPs to connect at the first data switch. Backhaul to the "real world" first data switch is part of the additional costs of the UBA STD service. If the first data switch is in a different location in the model, the Commission would be modelling a service which delivers something different to the UBA STD service. Furthermore, changing the location of the first data switch would drive additional costs onto RSPs.

Standing back, the direction of the Telecom submission seems to give rise to the same issues as the Vodafone suggestion on the MEA, which we have responded to above.

Further consultation

There are a number of relevant issues the Commission have not yet expressed a view on or raised for discussion. As a result, the responses to the consultation to date have not engaged on those issues in a meaningful way. The Commission may wish to consider an early workshop on these issues to support a timely and high quality consultation.

Yours faithfully



Anna Moodie
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