



PO BOX 632
Wellington 6140

John Gandy
Manager
Telecommunications Branch
Commerce Commission
PO Box 2351
Wellington 6140

28 February 2013

Dear John

COMMISSION REVIEW OF THE STD PRICE LIST FOR UCLFS UNDER SECTION 30R OF THE ACT

This is Chorus' cross-submission on the Commerce Commission's (**Commission**) consultation paper dated 11 December 2013 and entitled "Review of the standard terms determination price list for Chorus' Unbundled Copper Low Frequency Service (**UCLFS**) under section 30R of the Telecommunications Act 2001" (**Discussion paper**).

Under the UCLFS STD, connection charges do not change if the Commission updates the UCLL STD. Telecom describes this section 30R review as the correction of a simple omission. Telecom's view is that the Commission should backdate a change to the UCLFS connection charges because everyone could have anticipated a future section 30R review and that the UCLFS STD would change as a consequence of that review, and Chorus should have acted in anticipation of that future change. Telecom goes on to say that if Chorus did not act in advance of a future amendment that is somehow a market power issue.

We note that the UCLFS STD was finalised in November 2011, and provides for changes to the UCLL monthly rental charge to automatically flow through to the UCLFS STD (but does not provide for connection charges to change). The Commission issued its UCLL re-benchmarking decision in December 2012, and the monthly rental charge automatically flowed through to the UCLFS STD at that time. This section 30R review was initiated 2 years after the UCLFS STD was finalised, and 12 months after the UCLL re-benchmarking decision.

As part of the section 30R review initiated by the Commission, it has for the first time introduced the idea of backdating of a review determination. Accordingly, the Commission is considering more than a simple correction of an omission. This illustrates why it is difficult to pre-empt the outcome of a Commission process and why a regulatory regime cannot operate by simply responding to calls that a party should have pre-empted and actioned a decision before it is made.

As noted in our previous submission, given the passing of time and pending final pricing review processes, it is open to the Commission to consider aligning the process timelines.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'AM', with a long horizontal stroke extending to the right.

Anna Moodie
Assistant General Counsel
Regulatory and Competition Policy