

Section 30R Review of the UBA STD: Process and Issues Paper

**Cross-Submission to the Commerce
Commission**

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1 Executive Summary

Thank you for the opportunity to provide further comments on the Commerce Commission's section 30R review of the UBA Standard Terms Determination ('UBA STD') Process and Issues Paper, following the Commission's workshop of 15 June 2016.

2degrees has had the opportunity to further consider suggestions and potential amendments put forward at the workshop.

2degrees remains of the view, as set out in our previous submission, that the UBA STD must be updated given the significant changes in structural, technological and consumer demand expectations since the UBA STD was last amended, and given inconsistent interpretations, as highlighted by the proposed introduction of Boost services.

We do not consider the current UBA STD best meets the section 18 purpose statement – the promotion of competition for the long-term benefit of end users. It was clear from the workshop that the current UBA STD results in:

- Low minimum service expectations for consumers, across both ATM and Ethernet copper networks;
- Unnecessary uncertainty for industry players due to lack of clarity regarding this key input service, and the inconsistencies with current practice and expectations;
- Unnecessary, time consuming and costly processes for RSPs and consumers to address issues arising; and
- Unclear technology upgrade paths for some customers to receive improved broadband.

We consider that changes are required to improve UBA broadband experiences for end users. While we agree with Chorus that 'fibre is the future' for many consumers, we note copper will remain important in the longer term for a number of users that do not fall within UFB upgrade (or RBI) areas. As such, while much of the discussion at the workshop focussed on ATM-based consumers, this UBA STD is important for both ATM and Ethernet-based UBA consumers.

We consider this review should:

- **Update the UBA STD service description:**
 - This should reflect the current regulated service delivered to RSPs – a full speed unconstrained service;
 - Reaffirm that the regulated UBA service is technology agnostic (xDSL) and includes VDSL;
 - Reaffirm that this is expected to evolve over time in line with technological developments/standards and consumer expectations;
 - Introduce a 10GigE handover option as standard;
 - Reaffirm that Chorus is free to develop innovative commercial variants, but that this should not be achieved through degradation of the existing regulated service for consumers;
 - Clarify that BUBA which does not deliver to all consumer expectations, is expected to be phased out over time;

- **Ensure clause 10 provides a clear, timely and robust process for the introduction of new regulated and commercial variants;**
- **Require increased transparency of Chorus' systems in terms of current order provisioning, current network data and congestion, and fault issues to improve end-user experience:**
 - Clear expectations of Access Providers established by the Commerce Commission;
 - A TCF Working Party established to address technical aspects of increasing transparency, with scope and timeframes established by the Commerce Commission.

We note that our proposals are largely consistent with those tabled by Spark at the workshop (*Spark New Zealand, UBA s30r workshop paper, June 2016*).

Our more detailed comments on the above are set out in Section 2 below.

2 Proposed Amendments

2.1 Amendments to the Service Description

As set out in our initial submission, 2degrees agrees with Spark that a lack of clarity in the service description around expected performance undermines RSP and customer confidence, that VDSL is a key part of UBA service that should be explicitly recognised; and that some aspects of the service description promote inefficiency, for example only having 1GigE handovers.

We therefore agree that the Commission should codify UBA service outcomes, establish service objectives and update the service description to explicitly provide for VDSL and 10xGigE handover options.

2degrees also support the Commission clarifying that the regulated UBA service is expected to meet the needs of typical end users and evolve over time with technology developments and consumer expectations (i.e. strengthening the current reference to “consistent with international best practice” which implies this, but as acknowledged by the Commission, is more subject to interpretation).

To this end we support Spark’s proposals to amend the service description to:

1. Clarify that UBA is an underlying input service that makes the *full capabilities of platform available* to access seekers, and *grows over time*.
2. Set the Service Objective that UBA is an *uncongested service* that supports the maximum service speed of the line;
 - a. EUBA: Chorus to add capacity so that no route is more than 80% full at peak time;
 - b. BUBA: Chorus to mitigate end user impact of technology choices and provide time bound plans to resolve congestion (currently in backhaul);
 - c. To maintain service speed as set out in Chorus’ ADSL report.
3. Clarify VDSL and add 10xGigE handover options.
4. Price List to provide 10xGigE handover at UFB price (connection and monthly). Multiple GigE price capped at that of 10xGE when Chorus unable to provision.

Reference to full capability of the platform

2degrees supports the UBA service being provided as fast as possible (i.e. with no dimensioning by Chorus). While we understand that the capability of Chorus’ ATM network is more limited than other parts of its network, we do not support limiting the speed of the STD/applying a lower standard based on the speed of the ATM when network, when the majority can and should go a lot faster.

Spark’s suggestion to refer to the full capabilities of the platform available and set the EUBA and BUBA service objectives allows the circumstances of each customer link to be taken into account when assessing the appropriateness of the throughput standard of service being received (for example, whether the link is ATM or Ethernet based, ADSL or VDSL) and addresses cases where congestion in the backhaul is limiting consumer experience.

We further note that the TCF UFB EAS Working Party is currently considering similar issues (for example appropriate thresholds for upgrading capacity) and we see merit in aligning the copper and fibre frameworks.

Evolution of the UBA STD service over time

At the workshop it was generally agreed that, as set out in our previous submission, “the regulated service needs to evolve over time to ensure it remains relevant and effective...”

We consider Spark’s reference to growing over time is usefully more explicit than current wording and supportive of section 18.

As set out in our initial submission we also consider it would be useful for the Commission to clarify that Chorus should not be able to use their market power to deliver a ‘commercial’ variant that should be a default regulated service, for example we consider minor noise modifications that improve end user speeds and the introduction of Annex M should form part of the evolving regulated service.

We consider these steps are usefully supported with increased transparency measures on Access Seekers to provide both improved certainty to RSPs and customers, and to incentivise Chorus to provide upgrades.

At the workshop Chorus said it was aiming to implement a management plan where links will never reach 100% capacity, except in exceptional circumstances, and noted it was happy to increase transparency where possible to improve clarity around congestion of network links. 2degrees supports these initiatives and considers there should be a minimum level of service/expected line speed that customers are able to use as a reference as to whether they are receiving the expected level of service, having considered other issues that affect speed variability e.g. home wiring.

Upgrading of network in regional areas

As noted in 2degrees’ previous submission, whilst we support the upgrade of the ATM/BUBA network to EUBA, we understand that in some areas this is likely to be challenging and take time to achieve.

While 2degrees does not support forcing inefficient investment, we support incentives for Chorus to upgrade ATM networks over time to improve consumer services. We note we are aware that some ATM links are already not meeting the regulated standard and are in need of upgrade. We support standards to support the upgrade of congested links. As previously noted, we also consider alignment of the pricing of Ethernet handovers for BUBA with EUBA would help incentivise upgrades: where Chorus is not able to meet their regulated commitments to provide ATM-based handovers Chorus, rather than RSPs, should pay the difference it incurs due to the lack of this investment.

2degrees further support the consideration of VDSL vectoring in regional (non-UFB) areas as an efficient means of providing significantly increased speeds to many (albeit not all) of consumers in these areas. Currently no VDSL vectoring is offered in New Zealand because Chorus must offer unbundling. Given the location of these consumers, we consider that unbundling is unlikely to be the most economic solution and that to avoid duplication and provide better services to these consumers, it may be more efficient if Chorus were not required to offer unbundling services in non-UFB areas. This may provide greater incentives for Chorus to upgrade its services in these areas.

Clarification of VDSL inclusion

Chorus have now clarified that they consider VDSL a part of the current service. This is consistent with our understanding that the regulated service is a technology neutral xDSL

service, which includes xDSL variants such as ADSL, VDSL and other variants that may evolve. We consider it is useful to clarify this in the regulation.

Introduction of a 10GigE handover option to the STD

As previously submitted, 2degrees strongly support the addition of a 10GigE handover option to the regulated service. This is the standard industry option we employ in many cases, and we consider the regulated service should evolve to now include this service.

We agree that the Act requires TSLRIC as the appropriate pricing principle to be applied to regulated UBA services. That said, we do not agree that it is appropriate to use the 10GigE price determined in the December 2015 FPP determination, as suggested by Chorus. This is because:

- The purpose of that process was not to determine the 10GigE handover price. The 10GigE cost in the FPP model was not robustly tested or submitted on by relevant parties. 2degrees can confirm that it did not submit on the 10GigE price of the FPP model.
- The cost of 10GigE in the FPP model is not cost based:
 - We consider the true cost of a 10GigE handover to be very significantly below that of the FPP model and Chorus' current commercial price.
 - The cost of a 10G handover is not ten times the price of providing a 1G handover (for example, the labour cost required).
 - The UFB equivalent cost is only \$300. It was clear during the workshop that a number of RSPs have issues with the approach adopted in the FPP model and the current differential between the copper and UFB handover prices. 2degrees share these concerns and considers that the onus should be on Chorus to prove that it is supplying UBA 10GigE at TSLRIC, and that this is significantly more than the fibre equivalent.

We note that Chorus does not support other specific FPP model inputs being applied.

We would be open to an industry approach to addressing the price of this service outside a full FPP process.

2.2 New variants (clause 10)

2degrees recognises that there are issues with the current clause 10 as highlighted by the Boost proposal. This links to our comments that it should be clear that the regulated service is expected to evolve over time and that new 'commercial' variants shouldn't be replacing the regulated service, for example minor tweaks that do not add significant cost.

Ultimately Chorus is a regulated monopoly and we expect commercial variants to be a limited focus of the business, largely driven by RSPs (consumer/RSP demand).

We support the amendments proposed by Spark to the General Terms, including making the process less weighted towards variants outside the regulated service.

2.3 Increased transparency of Chorus' systems for access seekers/ TCF working party

2degrees supports increased transparency of Chorus' systems for access seekers to enable better consumer service provision, and considers this is likely to better give effect to section 18 of the Act.

As noted in our previous submission and at the workshop, we consider there is currently very limited transparency in terms of each of order provisioning, current network data and congestion and fault issues.

We welcome the improvements to transparency that Chorus mentioned in the workshop.

We consider the Commission should clarify its expectations regarding transparency obligations of Access Providers.

It would be helpful if Chorus clarify to RSPs and the Commission what is or can be made available to input into this section 30R review.

2degrees support the establishment of a TCF working party to hold discussions around the detailed technical changes required to the general terms and operational manual. That said, we acknowledge the Commission's concerns regarding timing and agree that to be effective, clear guidance on expectations of the working party is required from the Commission as it is clear that different parties have different views on this at present. This is in terms of both substance and timing.

More detailed comments on provisioning events, fault events and diagnostic tools and processes, having reviewed Sparks' proposed amendments set out on slides 7-9 of the power point it presented follow.

Provisioning Events

2degrees also experiences the issues identified by Spark in relation to provisioning. The current system results in many new provisions being referred back as having either no availability or as a fault. This results in unnecessary technician visits, which negatively impacts both the RSP and the customer, as well as Chorus resources.

We support increased visibility at pre-qualification stage of service availability and expected performance and timing - for example whether a customer is able to get VDSL or ADSL, whether or not a line is already intact or not. We also consider that where Chorus has just provisioned a line, it should be capable of servicing the customer.

As such we support all of Spark's proposed amendments or as a potentially simpler alternative, that when Chorus installs a line it is guaranteed for a certain period of time (e.g. 45 days). If a fault arises within that defined period then the onus should be on Chorus to address it.

2degrees supports providing greater clarity around the wiring (splitter) standards to ensure splitters are installed in the appropriate place first time where possible.

Fault Events

As set out in our initial submission we consider that there is considerable room for improvement in the current faults process.

We agree with Spark that the current "fault process leaves consumers confused and frustrated, and RSPs and consumers with high costs" and that the current booking practices are "more service company focussed than facilitating end user requirements".

We do not consider the current end user charges incentivise Chorus to improve this behaviour. Under the current system customers may be charged when a customer premise visit that has occurred should not have been justified.

We agree that improvements to the definition of a fault and better tools for RSPs to trouble shoot issues with customers would be better for consumers.

As such, we support Spark's proposed amendments. Further, we support a reciprocal Chorus No Fault Found and Abortive Site Visit fees for when a fault is found within the Chorus network which is due to mis-configuration of the Chorus network, and for when Chorus technicians miss scheduled commitments.

As previously noted, currently Chorus charge to recoup costs when there is no fault on their network, but RSPs are not able to recoup costs from Chorus. In our view, RSPs take the majority of the risk when trying to resolve a customer fault, when Chorus has better tools and information than the UBA RSP. For example, an RSP may send a modem, spend time trouble shooting and arrange for a technician to be sent, whilst the RSP customer continues to be faced with poor internet service. A reciprocal Chorus NFF would incentivise Chorus to check or share relevant information with RSPs to more quickly identify and address issues on their network that are affecting a customer.

Diagnostic tools and processes

2degrees would like the ability to more quickly and efficiently identify faults impacting our customers to both ensure the fault is promptly addressed and ensure that our customers have the right information.

2degrees supports Spark's suggested amendments for improved diagnostic tools and processes, including performance reporting via an API that integrates with RSP systems.

Improved diagnostic tools and processes would avoid unnecessary cost for both industry and consumers, for example, not requiring a premise visit when there is a known power outage causing connection issues.

We note that 2degrees (and formerly Snap) have been seeking such increased visibility for years. The DSLAMs have a lot more information regarding customer performance that RSPs do not currently have access to and we consider should.

Previous indications from Chorus have shown an ability and willingness to provide this information. We consider a request from the Commission would assist in achieving this in a timely manner.