



## Notice to supply information and documents to the Commerce Commission Sections 98(a) and (b) Commerce Act 1986

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### To:

Spark New Zealand Limited  
Level 2, Spark City,  
167 Victoria Street West,  
Auckland, 1010

Attention: John Wesley-Smith, Head of Regulatory Affairs

### Purpose of the Notice

1. We (the Commerce Commission) are reviewing the price to be paid for the Unbundled Copper Local Loop (UCLL) and Unbundled Bitstream Access (UBA) services provided by Chorus Limited, as defined in subpart 1 of Part 2 of Schedule 1 of the Telecommunications Act 2001 (Telecommunications Act). We are required to make a price review determination as soon as practicable (refer sections 47 and 51 of the Telecommunications Act 2001)
2. The purpose of this Notice is to obtain information and documents relevant to our price review determinations for the UCLL and UBA services.
3. The Notice is issued under sections 98(a) and (b) of the Commerce Act, and section 15(f) of the Telecommunications Act.
4. We consider it is desirable for Spark New Zealand Limited to provide us with the information and documents specified in **Attachment A** to this Notice to assist us in making the price review determinations.

### Date and place of response

5. The information and documents in response to this Notice must be delivered to the Commission's Wellington office at Level 6, 44 The Terrace for the attention of Tricia Jennings, or by email to [telco@comcom.govt.nz](mailto:telco@comcom.govt.nz) with the subject "Response to section 98 Notice of 5 February 2015", by **5pm on Friday 27 February 2015**.
6. Spark New Zealand Limited must provide all information and documents in Attachment A in electronic format, via email, flash drive or to the assigned extranet site.

7. Spark New Zealand Limited must label and identify all information and documentation, and explain which information relates to which paragraph of this Notice.
8. Spark New Zealand Limited must supply the requested information and documents under cover of a letter on Spark New Zealand Limited's letterhead, signed by a person with the appropriate authority.

Dated at Wellington 5 February 2015

Signed by:

A handwritten signature in cursive script, appearing to read 'Elisabeth Welson', followed by a horizontal line.

Elisabeth Welson  
Commissioner

**Attachment A**

1. For the purposes of this Notice, the following terms have the following meanings:
  - 1.1 **Chorus** means Chorus Limited, its interconnected bodies corporate (as defined in section 2(7) of the Commerce Act 1986), business units or joint ventures, and any current or former agents, employees, officers and directors thereof;
  - 1.2 **Spark** means Spark New Zealand Limited its interconnected bodies corporate (as defined in section 2(7) of the Commerce Act 1986), business units or joint ventures, and any current or former agents, employees, officers and directors thereof;
  - 1.3 **STD** means Standard Terms Determination as defined in s30M of the Telecommunications Act;
  - 1.4 **Transaction** means any instance of the sale purchase or delivery of a service that is included in an STD;
  - 1.5 **UCLF** means Chorus' Unbundled Copper Low Frequency service provided in accordance with the STD dated 24 November 2011.
  
2. For each month in the period December 2012 to November 2014, for each charge listed in the UCLF STD (including, to avoid doubt, all charges listed in parts 1, 2 and 3 of Schedule 2 of the STD), please provide:
  - 2.1 the number of Transactions for that charge in that month, if any, and
  - 2.2 the total monetary amount Spark was charged for all Transactions for that charge in that month, if any.
  
3. For each service that Spark has either bought or sold in the period December 2012 to November 2014 that is not provided under an STD but where the contract price, or any component of the contract price (such as a discount), is contractually linked to any price in the UCLF STD (including, to avoid doubt, where the price charged is the same as the price provided in the UCLF STD), please provide:
  - 3.1 the name of the service,
  - 3.2 the price in the UCLF STD on which the contract price, or any component of the contract price, of the service is based,
  - 3.3 the contractual provision or provisions under which Spark calculated or identified the price or prices for the service, or any component of the contract price, including any definitions used in the contract that are relevant to that provision or those provisions, and

- 3.4 identification of any contractual provisions that address the effect on the contract price, or any component of the contract price, if the price in the STD on which the contract price or component of the contract price is based is changed with retrospective effect, including any definitions used in the contract that are relevant to that provision or those provisions.
- 4 For each of the services identified in response to paragraph 3 where the contract price, or any component of the contract price, is based on any price in the UCLF STD, for each month in the period December 2012 to November 2014, for each RSP, please provide:
  - 4.1 the number of Transactions for that charge in the relevant month, and
  - 4.2 the total monetary amount the RSP was charged for all Transactions for that charge in that month. Where the monthly total amount is subsequently amended by wash-up, refund or other subsequent adjustment, please provide a description of the adjustment, including the amount and the period to which it relates.
- 5 Completing the Excel spreadsheet provided with this Notice, with a new worksheet for each RSP, would satisfy the request at paragraph 2, 3 and 4 above.
- 6 For the avoidance of doubt, it is intended that paragraphs 3 and 4 capture POTS, re-sold POTS and Baseband services. If the responses to paragraph 4 do not include POTS, re-sold POTS or Baseband services, please provide an explanation of why those services are not charged based on a price provided in the UCLF STD.
- 7 Please provide a copy of any contract or contracts between Spark and Chorus for the sale and purchase of Baseband services that were in effect between December 2012 and November 2014.