



15 December 2016

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TRUSTPOWER SUBMISSION: DRAFT DETERMINATION ON SECTION 30R REVIEW OF THE UBA STANDARD TERMS DETERMINATION

1 Introduction

- 1.1.1 Trustpower Limited (Trustpower) welcomes the opportunity to provide a cross-submission to the Commerce Commission (the Commission) on its *Draft Determination on Section 30R review of the UBA Standard Terms Determination* (the review).
- 1.1.2 Our cross-submission focusses on the following points, put forward by other parties in their November 2016 submissions on the review:
 - a) congestion service specification and reporting requirements; and
 - b) Chorus' proposed amendments to the Commission's Draft Determination.

2 Congestion service specification and reporting requirements

- 2.1.1 Trustpower's preference for the proposed LAP utilisation threshold remains for measurement to occur over a 5 minute period. This was also submitted by Spark and Vodafone. As Spark has noted, a 5 minute (or shorter) measurement period would be more reflective of the actual performance of links¹, thus allowing RSPs a better indication of, and ability to manage, service degradation as experienced by the end user.
- 2.1.2 While we are comfortable with Chorus' ATM LAPs being exempt from this threshold until such time a decision is made regarding phase 2 of RBI, we agree with 2degrees' concerns of congestion over the ATM network² and stress the inclusion of ATM LAPs within reporting requirements, to ensure that RSPs are able to monitor and support users experiencing congestion on this network in the interim. To this end, we support Spark's proposal that Chorus be required to publish ATM

¹ Spark NZ, "Section 30R review of Chorus' Unbundled Bitstream Access Service – draft determination Submission", 30 November 2016, [9]

² 2degrees, "Section 30R Review of the UBA STD: Process and Issues Paper, A Submission to the Commerce Commission", November 2016, pg 3

investment and asset lifecycle plans, setting out a baseline standard for what phase 2 of RBI would be expected to build on³.

3 Chorus' proposed amendments to the Commission's Draft Determination

- 3.1.1 We do not agree with the addition of Chorus' "Exceptional utilisation event" definition, as we believe its application is too broad and unclear. In particular, with respect to the large unexpected demand peaks in bandwidth, and the unexpected ISP testing examples cited by Chorus,⁴ we would expect Chorus to accept some responsibility for engaging with RSPs and ensure that it receives accurate and up to date usage forecasts from RSPs. Where there is unexpected congestion as a result of RSP actions, we would expect Chorus to fairly manage network use, to ensure that other RSPs are not adversely affected.
- 3.1.2 An exceptional utilisation event, as defined by Chorus, would not be clearly distinguishable from a breach of the proposed utilisation standard nor *force majeure* by this description, and we would encourage further development if it were to be included in the UBA Service Description.
- 3.1.3 Further, we disagree with Chorus' proposed additions of clause 2.5 of the UBA General Terms and clause 1.7 in Schedule 2, as the type of DSL technology used to deliver the UBA service should be driven by end user and RSP demand.
- 3.1.4 For any questions relating to the material in this submission, please contact Peter Gregory, Business Manager – Telecommunications, on 07 572 9888.

Regards,



LARISSA LUTCHMAN
STRATEGY AND GROWTH

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³ Spark NZ, "Section 30R review of Chorus' Unbundled Bitstream Access Service – draft determination Submission", 30 November 2016, [23]

⁴ Chorus, "Submission on Draft Determination in Section 30R review of Chorus' Unbundled Bitstream Access service", 29 November 2016, [34]