

From: Chris O'Connell
Sent: Friday, 18 July 2014 2:56 p.m.
To: telco
Subject: Re: Extension for submissions on our issues paper for accessing Chorus' new UBA variants - Boost HD and Boost VDSL

TUANZ submission on Chorus UBA variants

18 July 2014

1. Thank you for the opportunity to submit on the Issues Paper. TUANZ particularly welcomes this consultation round on an important issue with serious long term implications for competition in New Zealand's telecommunications market.
2. TUANZ has long championed innovation and investment in New Zealand's telecommunications market and encourages all players including Chorus to develop innovative products and services that don't require regulatory intervention or oversight.
3. TUANZ sees the proposed Boost products as an attempt to encourage Retail Service Suppliers to contract out of the regulatory regime to the financial detriment of New Zealand telecommunications users and consumers.
4. TUANZ considers that Chorus has placed itself in a situation where it is struggling to balance the conflicting demands of investors, its wholesale customers and its Government UFB partner.
5. By attempting to separate the Boost services from the regulatory requirements of the UBA STD, Chorus will in effect create a 2 tier market for copper broadband service where some customers will be 'frozen in time' and no longer enjoy the flow on benefits of long planned network upgrades.
6. TUANZ also supports and endorses the Internet NZ submission on the Boost products and in particular the analysis and observations from Wigley & Company:
 - a. Chorus cannot traffic manage regulated UBA: the service description does not permit that. Chorus must supply UBA at maximum line speeds;
 - b. Chorus cannot have separate handovers for regulated UBA and Boost: again, the service description does not permit this;
 - c. On a proper interpretation of the service description, Chorus must supply regulated VDSL to VDSL capable lines. It cannot withdraw that service. The Commission erred in its decision on this point in 2010, but it is the court and/or the arbitrator that ultimately decide this point – at the instigation of the Commission and/or parties – not the Commission.

- d. When the Boost service layers are unpeeled, and compared with what should be supplied as regulated UBA (eg maximum line speeds, etc), there is little difference between regulated UBA and Boost. In particular, over Boost capable lines (that is, the lines that can achieve the Boost speed metrics), regulated UBA will achieve the same speeds. The Boost offering only applies to lines that are capable of meeting Boost speeds (so that other lines are triaged out).
 - e. If regulated UBA is correctly provided (eg with maximum line speeds and VDSL capability), regulatory intervention may not be required. Boost likely would have little uptake. Otherwise, there should be regulatory intervention such as a s3OR review.
7. TUANZ would like to observe that these matters have arisen as a result of a re-interpretation of the UBA STD and would like to suggest that this is an appropriate subject for the review of the Telecommunications Act. There is a need to harmonise interpretations in a post-separation world so that certainty can return not only to investors but also to retailers customers and consumers.
8. In summary, TUANZ has welcomed to overall improvements in the performance of Copper Broadband however TUANZ sees this as an ongoing result of the long term program set in place by the 2006 Telecommunications Act and therefore remains clearly within the scope of the existing UBA STD. The Boost product set appears to be a cynical attempt to reposition planned investment as fresh innovation and thus avoid regulatory obligations.

Regards

Chris O'Connell
TUANZ