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Cross-submission in response to  
the Commerce Commission's consultation paper  
"Consultation on setting prices for service  
transaction charges for UBA and UCLL services"  
(25 September 2014)





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## EXECUTIVE SUMMARY

### Introduction

- 1 This cross-submission responds to submissions on the Commerce Commission (**Commission**) paper *Consultation on setting prices for service transaction charges for UBA and UCLL services* (**Consultation Paper**) released on 25 September 2014.
- 2 There is general agreement amongst submitters that the Commission must apply the Final Pricing Principle (**FPP**) to transaction charges. The key issues where parties' views diverge are in relation to:
  - 2.1 The scope of the FPP process in respect of transaction services. The Commission is carrying out an FPP pricing review determination to set the price payable for the regulated UCLL (with consequential impacts on the UCLFS service), SLU and UBA services, including the transaction services. In our view the relevant transaction services to which the FPP process applies are the core transaction charges that were subject to the relevant Initial Pricing Principle (**IPP**) determinations only. The FPP process is not a general opportunity to add non-price terms or additional transaction services to the STDs.
  - 2.2 The methodology the Commission should use to set the core transaction service charges under the FPP. Generally, RSPs prefer a bottom up modelling exercise rather than our preferred approach of starting with third party service company costs set under a competitive tender (top down approach).
  - 2.3 The need for additional services or pricing for bulk orders and batching. Bulk charges and batching rely on sufficient volumes at the same geographic locations. Our ability to carry out bulk orders or batching is constrained by the STD terms, including service level requirements. Bulk orders and batching mean that we would need to wait until we have a threshold of orders, which implies delays. Whereas RSPs generally want quick timelines. Accordingly there is a trade-off that needs to be made. In addition, our service company charges factor in batching where it is reasonable and the STDs already provide for bulk orders on a Price on Application (**POA**) basis.
  - 2.4 Whether transaction charges should be merged together or merged with monthly rental. We share WIK's concerns that merging transaction charges with monthly rentals will not result in TSLRIC prices.

### Transaction charges subject to the FPP

- 3 Some submissions request that additional services, both new and sundry, be included in the FPP determinations. We disagree with this interpretation of the scope of the review. This would be a significant departure from the approach to STDs to date.
- 4 The FPP pricing review process is related to determining the price payable for existing services, not the inclusion of new services or additional non-price terms.

5 The Commission's preliminary view, that it is entitled to apply the FPP only in respect of prices determined in the determination subject to the section 42 application, is correct. We disagree with any suggestion that the Commission must apply the FPP to all prices in the STD or that this approach will create practical difficulties in the future. The Commission has the power under section 30R "on its own initiative" "at any time" to review "all or any terms" and this section is sufficiently broad to encompass a review of the price terms of the STD. Such a review, commenced after the completion of the current FPP determinations, would be consistent with the expectation in section 30P(1)(a) that, where prices for the service have been determined in a pricing review determination, the prices for the service will reflect the FPP.

6 The Commission cannot amend the non-price terms of the STD in the course of making this FPP determination. This is consistent with the Commission's preliminary view that its role is to review the prices set in the IPP determination, rather than taking a wider view of the STD.

#### **TSLRIC approach**

7 A top down approach using transparent third party service company charges is consistent and sits comfortably with the TSLRIC pricing approach in the FPPs. It also has the advantage that it is more practical. WIK and Spark both seem to acknowledge that the Commission does not have the time or resources to do bottom up cost modelling for transaction charges.

8 A top down approach using transparent third party service company inputs is appropriate and consistent with the FPP (TSLRIC pricing), has precedent in the STDs already, is supported by overseas regulatory precedent and is more readily achievable within a reasonable timeframe.

9 We disagree with WIK that the costs identified under our proposed top down approach do not represent the efficient cost of an efficient operator and therefore a bottom up approach is required.

10 The tension created in the tender process, where three independent parties are competing, results in efficient prices. In addition, Chorus generally consumes the same service company inputs and has the right incentives to ensure they are the lowest cost possible – these are not just pass-through costs to RSPs. We also apply the same discipline when negotiating all of our service company charges.

11 The current method of regulation of transaction charges (in which regulated prices have for a number of years been disconnected from Chorus' costs) has created strong incentives for cost minimisation in the delivery of transaction services. Chorus has responded to these incentives by driving for lower prices from its service companies, through the nationwide competitive tender process. As a result of these incentives, the service company prices for transaction services are very likely to represent the efficient cost of delivering those services. This provides strong support for a top down approach to modelling to set the baseline for transactions charges. It follows that a bottom up approach is not required to determine the efficient cost. We note that our proposal

includes a mechanism to reflect changes in our underlying input costs. On a go-forward basis Chorus, like any other company, will be incentivised to reduce costs over time.

- 12 The complexity of bottom up modelling should not be under-estimated or its impact on Chorus, service companies and the industry. The Commission would need to ensure that there was a reasonable sample of every transaction service, including every activity undertaken both internally and externally and across the diverse geographic areas to provide services to customers. Given the variation likely, the Commission would need to set an average, and under the Telecommunications Act (**Act**) it is required to set a geographically averaged price for the transaction services, which would have unders and overs anyway. It is hard to see that this average would be more credible than using service company inputs under the circumstances for the reasons set out above.
- 13 If the Commission was to consider additional cross-checks based on overseas jurisdictions, then it is important to ensure that comparisons are between comparable services and activities and these reflect the real-world circumstances in New Zealand.
- 14 Similarly, if the Commission was to use cross-checks within the industry, then again it should ensure that it is using transparent third party costs and that the activities and circumstances under which they are performed are comparable. Chorus is a nationwide wholesale provider, the activities our service companies carry out for us are across diverse geographic areas.
- 15 We do not support the alternative approach recommended by WIK where it relies on the current transaction charges as a starting point and applies adjustments for efficiency. Using benchmarked charges is not consistent with the FPP as it is not a cost-based approach and there is no evidential justification to support the adjustment. The legislative framework is about setting TSLRIC prices that send efficient build/buy incentives.

#### **Bulk charges and batching**

- 16 Bulk charges and batching rely on sufficient volumes at the same geographic locations. Our ability to carry out bulk orders or batching is also constrained by the terms of the STDs, including service level terms that mean transactions need to be completed in a particular timeframe. Bulk orders and batching mean that we would need to wait until we have a threshold of orders, so this implies delays. A cabinetised network also means there are less opportunities for the relevant scale. On the other hand, RSPs generally want quick timelines. Accordingly, there is a trade-off that needs to be made – we cannot meet both of these competing objectives.
- 17 Further, we do not believe such additional transition services are necessary. Our service company charges factor in batching where it is reasonable and the STDs already provide for bulk orders on a POA basis.<sup>1</sup> There may in fact be additional costs in carrying out

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<sup>1</sup> "POA" is defined in the STD Price Lists. Clause 2.4 of the UBA Price List provides: "All charges expressed as "price on application" (**POA**) must reflect the underlying cost of providing the resources and project management skills required to provide the service. For all POA price items, Chorus must, if requested by the

bulk orders as we use third parties and third party systems to ensure a seamless process for our customers. However, the work we carry out also results in less cost for our customers on their side. Where there are cost efficiencies this will be reflected given that these services are charged on a POA basis.

#### **Merging transaction services and charges**

- 18 WIK states that merging transaction charges into recurring charges is not in line with cost causation and the proper allocation of costs. In addition, applying a TSLRIC costing and pricing methodology would not support such merger of charges.<sup>2</sup> We share WIK's concerns.
- 19 Some submissions raise concerns with the transparency of the cost of new connections in advance of ordering. On the current approach, RSPs will be charged for the relevant connection required in the circumstances so there is a benefit to splitting out new connection service to an additional level of granularity. To avoid any uncertainty as to the particular connection charges they may pay, one option would be to have one averaged price rather than a tiered price based on the activities undertaken. However, again there is a trade-off to be made. More averaged prices will result in overs and unders.

#### **Commercial services**

- 20 Some submissions have raised concerns with pricing changes to Chorus' commercial services, which are outside the FPP price review. There are various reasons why these services are not regulated, for example, a large proportion of links have been found to be competitive. We have recently reviewed prices where these were not reflecting our costs and this has resulted in some price increases. There is no suggestion that Chorus is setting excessive prices. As a wholesale only provider there is nowhere for any under recovery to be made up. It is up to Chorus to manage its commercial products. The Commission's role in these processes is not to extend the scope of regulation.

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Access Seeker, use all reasonable endeavours to provide the Access Seeker with two or more competitive quotes."

<sup>2</sup> WIK's submission on the Consultation Paper, dated 9 October 2014, paras 37-40.





## RESPONSE TO THE COMMISSION'S QUESTIONS

### **Question 1 – Do you agree that in the FPP determinations the Commission can only set prices for the transaction charges for which it has set prices in the IPP determinations**

- 21 Chorus believes the appropriate approach for the Commission to take is to review the prices set for core transaction charges in the IPP determinations. Sundry charges are also outside the scope of the FPP process.
- 22 We disagree with the broad scope of review suggested by other parties encompassing sundry charges. This would be a significant departure from the approach taken in the STDs, from their initial development through to the IPP determinations. The insertion of new non-price terms is also outside the scope of the FPP determinations.

### ***Background to the distinction between core and sundry charges***

- 23 Section 30G(1) of the Act provides that a standard terms proposal must:
- (f) comply with any additional requirements that the Commission has specified under section 30F(2).
- 24 Section 30(G)(2) provides:
- The terms referred to in subsection (1)(a)—
- (a) must include the price payable for the supply of the service if that price has been determined in accordance with the applicable initial pricing principle or the applicable final pricing principle in a previous determination made under section 27; or
  - (b) must not include that price if that is not the case.
- 25 On 3 April 2007, Telecom (as it was called at that time) was issued with a notice to submit a standard terms proposal for the UCLL service under section 30F of the Act (**Notice**). Telecom was required to comply with section 30G of the Act and the requirements set out in the Notice.
- 26 The Notice set up a clear distinction between “core” and “sundry” charges. Telecom was required to specify all the charges to apply under the STD for the UCLL service and for sundry charges Telecom was required to include the charge. The services the Commission was to set under the IPP were the connection and monthly rental prices. Clause 10(c) of the Notice provided as follows:
- must specify all components of the unbundled copper local loop service for which the access seeker will be charged. For example, these may include charges for such functions as checking the availability of a line for an access seeker. For each component that relates to a sundry charge, the Proposal must include the amount to be charged and the basis for determining the charge, or, if the amount cannot yet be specified, the proposed basis for determining the charge. For the avoidance of doubt, the Proposal must not include the connection and monthly rental

prices for access to the unbundled local loop service itself, as these will be determined by the Commission in accordance with the applicable initial pricing principle

- 27 In fact, Telecom defined more charges as “core” than just monthly rental and connections.
- 28 The Notice for UBA was similar.<sup>3</sup> The most recent version of the UCLL Price List on the Commission’s website (dated November 2011) maintains this distinction:
- 2.2 **Core Charges** are for the core components of the UCLL Service.
  - 2.3 **Sundry Charges** are for other components of the UCLL Service (**ancillary services**). These charges are either:
    - 2.3.1 fixed; or
    - 2.3.2 calculated on a fixed hourly rate; or
    - 2.3.3 expressed as “price on application” (**POA**) to reflect the underlying cost of providing the resources and project management skills required to provide the ancillary service;
    - 2.3.4 a price reflecting the cost of the forecast business case for development and operations divided by forecast volumes.
- 29 The UBA Price List to apply from 1 December states the following:
- 2.2 **Core Charges** are for the core components of the UBA Service.
  - 2.3 **Sundry Charges** are for other components of the UBA Service.
- 30 Throughout the Commission’s UBA IPP and UCLL IPP processes the Commission has continued to apply this distinction of only applying the benchmarking process to core charges (including core transaction charges). There has been no objection throughout these processes, that we are aware of, to the Commission’s approach.
- 31 It is legitimate and appropriate for the Commission to stay focused on the prices set in the IPP determination. In particular, the Commission should not open up the sundry charges, which were not changed in the IPP determination. The Commission’s preliminary view that it is entitled to apply the FPP only in respect of prices determined in the determination subject to the section 42 application is correct. We disagree with the submission that the Commission cannot apply the FPP to some prices in the STD and not others. We do not believe that this approach will create practical difficulties in the future. While we support greater certainty, the Commission can use its section 30R power “on its own initiative” “at any time” to review “all or any terms” and this is sufficiently broad to encompass a review of the price terms of the STD. Such a review, commenced after the completion of the current FPP determinations, would be consistent

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<sup>3</sup> Clause 9(f) of the Notice provided as follows: “must specify all components of the unbundled bitstream access service for which the access seeker will be charged. For each component that relates to a sundry charge, the Proposal must list the amount to be charged and the basis for determining that charge, or, if the amount cannot yet be specified, the proposed basis for determining the charge. For the avoidance of doubt, the Proposal must not include the connection and monthly rental prices for access to the unbundled bitstream access service itself as these will be determined by the Commission in accordance with the applicable initial pricing principle;”

with the expectation in section 30P(1)(a) that, where prices for the service have been determined in a pricing review determination, the prices for the service will reflect the FPP.

- 32 Spark has also asked that the Commission use the price review process to regulate additional services in the FPP process, discussed further below. The Commission cannot amend the non-price terms of the STD in the course of marking this FPP determination. This is consistent with the Commission's preliminary view that its role is to review the prices set in the IPP determination, rather than taking a wider view of the STDs. While the Commission is able under section 52(d) to include "the terms and conditions (if any) on which the pricing review determination and the determination referred to in paragraph (b) (if any) is made"<sup>4</sup> Spark's request is beyond matters directly relating to the pricing of the core transaction services.

**Question 2 – Do you agree that the list of charges in the Appendix is the complete list of charges for which the Commission is setting prices in the FPP determinations**

- 33 Spark has asked the Commission to add services and charges to the FPP process that have not been included before, and to add sundry charges. As set out above, the addition of new transaction services and sundry charges is outside the scope of the FPP determinations. We have provided our comments on each of the proposed additional services in Appendix 1 of this submission.

**Question 3 – Do you agree that when the Commission sets the prices for the transaction charges in the FPP determinations, it must apply the FPP of TSLRIC? Question 4 – How would you envisage this occurring?**

- 34 All parties agree the Commission must apply TSLRIC when setting the price of core transaction charges in the FPP determinations. Chorus believes the appropriate approach is a top down methodology based on service company charges as an input to its cost model, with an allowance for overheads and a mechanism to adjust prices if the underlying cost inputs change or if there are changes in the relevant pricing index. This is consistent with the methodology already used for sundry items in the UBA and UCLL STDs (and other STDs). Other parties prefer bottom up modelling.

***Top down approach is practical and meets the requirements of the Act***

- 35 The Commission can be confident that service company charges reflect efficient costs, as they are set through a competitive tender process. In a competitive market (as there were three service companies participating in the tender), inefficiencies would be expected to be competed away. Chorus has ongoing incentives to ensure that these costs remain efficient. Some submissions suggest that Chorus has no incentive to reduce costs to RSPs. However, the service company charges are cost-based and the vast majority of service company codes are also consumed by Chorus. In negotiating service company contracts, Chorus applies the same discipline to charges we consume and those passed through to RSPs – so there is the incentive to reduce costs. Chorus

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<sup>4</sup> Section 52(b) provides: "if the Commission has considered any matters that relate to the price payable for the designated access service under section 48(b) and has made a determination in respect of those matters, that determination"

does not “clip the ticket”<sup>5</sup> – the pricing in the STDs is cost-based. Chorus is only seeking to recover its efficient costs.<sup>6</sup>

- 36 On this basis, there is no need for the Commission to engage in bottom up modelling, which is complex and time-consuming. A top down approach is consistent with the FPP and is a practical approach.
- 37 RSPs have implied that Chorus’ systems are not efficient. The Commission should note that there is no evidence to suggest that Chorus systems costs are inefficient. Although many of the systems used to support UCLL and UBA are older systems, Chorus benefits from sharing these costs with Spark, in many cases incurring only a minority of operating costs. Chorus also benefits from economies of scale in sharing these costs with Spark – modern, standalone systems of a hypothetical new entrant (**HNE**) providing only wholesale access services (as opposed to a vertically integrated, full service provider) would not benefit from this scale.
- 38 RSPs have similarly implied that automated transactions incur zero cost, and that greater automation would also reduce costs. The Commission should note:
- 38.1 The costs of automation are significant and need to be recovered. Even in a fibre world, developing an OSS/BSS stack to support nationwide, wholesale only service provision, where there are different transaction types while supporting the flexibility customers need, is very expensive (as Chorus has experienced first-hand for UFB). Chorus has high volumes on a daily basis – thousands of pre-qualifications and address queries for example – for which automation is economically viable, but most definitely not “free”.
- 38.2 We believe there is an efficient degree of automation – an efficient operator would never automate 100% and there will always be some transactions that are most efficiently handled manually. For the most complex or lowest volume of transactions the cost of automation will outweigh the benefit and, in addition, some decisions require a person so need to be manual and cannot be automated.
- 39 Any comparison with other operator costs should also recognise that Chorus is not an integrated operator, so has to build open interfaces for everyone to use on a nationwide basis, meeting STD and SLA requirements, adding complexity which would not be present in a vertically integrated operator’s systems.

***Concerns with a bottom up model***

- 40 The complexity of bottom up modelling should not be under-estimated nor its impact on Chorus, service companies and the industry. The Commission would need to ensure that there was a reasonable sample of every transaction service, including every activity undertaken both internally and externally, and across the diverse geographic areas to

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<sup>5</sup> CallPlus’ submission on the Consultation Paper, dated 9 October 2014, para 15.e.

<sup>6</sup> We comment further on why it is incorrect to assume that the service company charges are inefficient in response to Questions 5 and 6 below.

provide services to customers. Given the likely variation, the Commission would need to set an average, which would have unders and overs anyway.

- 41 Under clause 4A of Schedule 1 of the Act the Commission must set a geographically averaged price when applying the IPP:

*In applying the initial pricing principle or the final pricing principle for the following designated services, the Commission must determine a geographically averaged price:*

*(a) Chorus's unbundled bitstream access service:*

*(b) Chorus's unbundled copper local loop network service.*

- 42 We don't believe this average would be more credible than using service company inputs under the circumstances.

***International cross-checks need to ensure comparability with New Zealand conditions***

- 43 If the Commission was to consider additional cross-checks based on overseas jurisdictions, then it is necessary to ensure that any comparisons are between comparable services and activities and that these reflect the real-world circumstances in New Zealand.

**Question 5 – Are there any other options for determining the costs of providing the transactions? Question 6 – Which option should the Commission take?**

***Top down approach***

- 44 We remain of the view, for the reasons set out above, that a top down approach is appropriate. We respond here to the concerns raised by other submitters with that approach and why we believe that they are incorrect.
- 45 WIK says that the costs identified under Chorus' top down approach do not represent the efficient costs of an efficient operator. Accordingly, a bottom up approach is required.
- 46 As discussed in the CEG report (attached),<sup>7</sup> the current method of regulation of transaction charges (in which regulated prices have, for a number of years, been disconnected from Chorus' costs) has created strong incentives for cost minimisation in the delivery of transaction services. Chorus has responded to these incentives by driving for lower prices from its service companies, through the nationwide competitive tender process. As a result of these incentives, the service company prices for transaction services are very likely to represent the efficient cost of delivering those services. This provides strong support for a top down approach to modelling to set the

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<sup>7</sup> CEG report "WIK transaction charges", dated 16 October 2014.

baseline for transactions charges. It follows that a bottom up approach is not required to determine the efficient cost.

- 47 The fact that Chorus competitively outsources a material proportion of the transaction services strongly supports the use of a top down approach. In that regard, WIK's critique of Chorus' position is not well founded, for the following reasons:
- 47.1 We disagree with WIK's view that "the process structure as prescribed by Chorus"<sup>8</sup> for external service providers cannot be relied upon by the Commission. There is good reason to assume that Chorus' process is efficient, due to the strong incentives for cost minimisation that have applied to Chorus' service company charges. This also addresses the "information asymmetry"<sup>9</sup> concerns raised by WIK.
  - 47.2 The operation of the competitive tender should reveal efficient costs for that aspect of the transaction service. Even if Chorus had no interest in cost minimisation (which for the reasons discussed above is untrue) the competitive tension created between service providers to secure the rights to provide the service would act to reveal efficient costs.
  - 47.3 As Chorus generally internally consumes identical services to those tendered, when supplying commercial services in competition with other providers, it has a strong incentive to minimise price outcomes in the tender.
- 48 We agree with WIK's comment that where Chorus faces efficient costs in addition to the service companies, it should be compensated for them.

***Risks of bottom up approach WIK suggests***

- 49 As set out in CEG's report,<sup>10</sup> there are some important risks involved in the bottom up approach to modelling the transaction charges which WIK recommends:
- 49.1 There is a real risk that the modelling will not identify all of the activities, equipment and functions that need to be performed. In this case, Chorus will not be compensated for its efficiently incurred costs.
  - 49.2 The modelling would need to capture contingencies for unexpectedly positive or negative operating environments. It is difficult to assign probabilities to such events and there is a real risk that the modelling will reflect an unrealistically optimistic scenario leaving Chorus exposed to asymmetric risks without a mechanism for it to claim for high-cost events.

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<sup>8</sup> WIK's submission on the Consultation Paper, dated 9 October 2014, para 9.

<sup>9</sup> WIK's submission on the Consultation Paper dated 9 October 2014, para 25.

<sup>10</sup> CEG report "WIK transaction charges", dated 16 October 2014.

49.3 A bottom up approach could in the long-run create potentially undesirable incentives to reduce quality.

50 It follows that it is highly unlikely that WIK's proposal to carry out bottom up modelling in "a few weeks" could be as effective as the seven year process of efficient cost discovery which has resulted in the current efficient service company prices for transaction services. The onus should be on the parties proposing a bottom up approach to demonstrate why the existing process and costs are inefficient and that the proposed bottom up model adequately provides for the delivery of the service (including that the modelled services are compatible with the requirements of retail service providers).

***Industry cross-checks also need to be comparable***

51 Similarly, if the Commission was to use cross-checks within the industry, then again it should ensure that it is using transparent third party costs and that the activities and circumstances under which they are performed are comparable. Chorus is a nationwide wholesale provider, the activities our service companies carry out for us are across diverse geographic areas.

52 Submissions suggest that the Commission should look for comparable charges in the wider industry to cross-check pricing. However, the Commission needs to be careful, as it is possible to use industry comparisons that bear no resemblance to Chorus' services. Any cross-checks should be based on third party transparent pricing for the same activities and take into account the geographic variability of areas and orders. There would otherwise need to be transparency to ensure the costs put forward were comparable and efficient for an HNE.

53 CallPlus gives the example that it offers interleaving at no charge to its wholesale customers. We don't know if this is comparable to the service we provide or what the costs are. In order to automate a process, there is a capital cost in building the system functionality which needs to be recovered somewhere. CallPlus may price in the costs elsewhere or this may be a low volume service and there are little costs. In any event, this is a commercial decision, which is irrelevant to the Commission's consideration of the efficient cost. The task of the Commission is to set prices that reflect the efficient cost (TSLRIC) of providing the service, which should include third party and internal activities and system costs. Chorus is a regulated wholesale only provider and the STDs are essentially reference offers to the industry on a nationwide basis. There is no negotiation outside the STD terms.

***An efficiency factor should be applied***

54 Some submitters seem to be suggesting that the Commission should apply an "efficiency adjustment" where it relies on current IPP transaction charges as a starting point, and applies adjustments for efficiency. Using benchmarked charges is not consistent with the FPP as it is not a cost-based approach and there is no evidential justification to support the adjustment.

**Revenue price cap**

- 55 We disagree with suggestion of introducing an overall revenue price cap, as this could lead to Chorus under recovering costs<sup>11</sup>.

**Question 7 – Do you agree that it is open to the Commission to merge some of the transaction charges into other charges?**

- 56 We do not believe it is appropriate for the Commission to merge transaction charges together.

- 57 Submitters generally support merging transaction services charges. In particular, submissions have suggested that:

57.1 Handover connection installations be merged into a single connection charge over all technologies.

57.2 Charges relating to transaction services that are records only could be merged and all port changes could be merged.

- 58 As we submitted previously, we need a certain level of granularity to know what services our customers wish to order and to give them transparency of our charges. Where transaction services have the same costs the prices are the same and this would appear to achieve the same outcome as merging transaction charges, without losing the distinction between the differing transaction types or changing the pricing structure.

- 59 Separate charges also give us flexibility to flow through any changes in particular cost inputs, for example, service company charges as in the case of sundry charges in the STDs. The service company charge may change if there were higher or lower expected volumes.

**Question 8 – Do you agree that the Commission is entitled to set bulk rates for UBA transaction charges?**

- 60 We do not believe any changes are required to the pricing constructs in the STDs. Additional requirements are not required as bulk transactions are already included in the UBA STD and batching is already included in the prices we are charged by the service companies. Chorus is also constrained by the STD terms, including the service level terms as to the degree of batching that is reasonable.

- 61 As discussed above, bulk charges and batching rely on sufficient volumes at the same geographic locations. Chorus has over 600 exchanges and thousands of cabinets. Our ability to carry out bulk orders or batching is also constrained by the terms of the STDs, including service level terms that means transactions need to be completed in a particular timeframe. Bulk orders and batching mean that we would need to wait until we have a threshold of orders, so this implies delays. A cabinetised network also means there are less opportunities for the relevant scale. On the other hand RSPs generally

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<sup>11</sup> Wigley and Company submission on the Consultation Paper, dated 9 October 2014, para 3.2(a).



want quick timelines. Accordingly there is a trade-off that needs to be made – we can't meet both of these competing objectives.

- 62 In addition, we do not believe additional bulk transaction services and batching are necessary. The STDs already provide for bulk orders on a POA basis. There may in fact be additional costs in carrying out bulk orders as we use third parties and third party systems to ensure a seamless process for our customers. The work we carry out also results in less cost for our customers. Where there are efficiencies in costs this is already reflected in the fact that these services are charged on a POA basis.
- 63 Business as usual ordinary transactions vary between relatively high volumes / relatively low cost transactions to occasional, and relatively high cost / relatively low volume transactions. Current charges reflect the average cost of this normal range/distribution.

**Question 9 – Are there any charges you consider should be merged into the monthly charges or re-classified in some other way? (Please also provide comments in response to paragraph 44 under this question)**

- 64 We set out our comments on merging transaction charges and monthly rental in this section.

***Merging monthly charges with transaction charges is not appropriate***

- 65 We do not believe the Commission should merge monthly rental and transaction charges, as there is no certainty as to what the actual input is. We share WIK's concerns that merging charges may result in prices that are not TSLRIC, contrary to the Act. As transaction volumes vary year-on-year, it is not possible to predict the type, volume and geographical location of transaction services and they are outside Chorus' control. The only way we can be confident about efficient cost recovery is if separate charges are set.
- 66 We support WIK's comments on the difficulties of merging transaction charges with monthly rentals,<sup>12</sup> namely that:

- 66.1 It is not consistent with TSLRIC pricing methodology.
- 66.2 It may have adverse effects on some RSPs, depending on their business models as it could distort competition.
- 66.3 The inability to robustly forecast the volume of transaction charges may lead to over or under-recovery of costs to Chorus.

***Additional information requirements***

- 67 Some concern has been raised with the transparency of the cost of connections in advance of ordering. RSPs will be charged for the relevant connection required in the circumstances. To avoid any uncertainty as to the particular connection charges they may pay in the circumstance one option would be to have one averaged price rather

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<sup>12</sup> WIK's submission on the Consultation Paper, dated 9 October 2014, paras 37-40.

than a tiered price based on the activities undertaken. However, again there is a trade-off to be made. More averaged prices will result in overs and unders. Alternatively, if additional information is required in advance of ordering that is not provided today then this will likely have a cost as it will require development.

- 68 In addition, Spark has asked the Commission to implement information requirements that would allow access seekers to assure bills and validate efficient charges. As discussed above, we believe that the addition of new information requirements are outside the scope of the FPP process and would require a change to the STD under a separate section 30R review. Further, we don't believe that the new information requirements proposed in Spark's submission are necessary for the reasons set out in Appendix 2.
- 69 If additional information is required from the service companies that is not provided today, then this will likely have a cost as it will increase administration costs in the office and field and consequently will impact service company charges.

**Question 10 – Please provide your understanding of what is involved in providing each transaction and the associated costs.**

- 70 There is not a lot of detail on the activities and costs involved in providing each transaction in other parties' submissions. Accordingly, we refer the Commission to our response to Question 10 to understand the activities and costs involved in providing all of the transaction services subject to the FPP process based on our understanding of the relevant services.
- 71 We note that Spark sets out assumptions for its analysis of activity for key transactions, which are:<sup>13</sup>
- 71.1 Connections are incremental to developer charges.
  - 71.2 Chorus is best placed and should be responsible for maintaining capacity in the access network. This means, for example, where there is a reconnection to the network and network rearrangement is required because the line has been redeployed to another customer or left in a faulty condition that the cost would not be charged to the connection.
- 72 We note that the UCLL STD only applies where there is an intact in place. The definition in the UCLL STD makes this point clear:
- 1.1 MPF New Connection: The establishment of a new service instance of the MPF Service (i.e. there is no MPF Transfer). The service is established from spares or intact circuits with an existing service lead into the building. That is, it utilises an existing MPR that is not currently used for the provision of telecommunications services.

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<sup>13</sup> Spark Submission on the Consultation Paper, dated 9 October 2014, para 37.

- 73 We disagree that an intact is not present, where a service had been previously connected, and that this somehow represents a failure on Chorus' part to manage its network efficiently, and consequently the costs of re-establishing that connection should be borne by Chorus. It would not be efficient to leave an unused intact under-deployed when it was required for another end user and invest in additional copper capacity. There may be a number of reasons why it is not being used, particularly in an industry that is transitioning to fibre. Similarly it would be inefficient to restore an intact when it is unknown whether and when it will be required by a new service instance.

## Appendices

## **APPENDIX 1: OUR RESPONSE TO THE PROPOSED SERVICES TO BE ADDED TO THE FPP PROCESSES**

### **Question 2 – Do you agree that the list of charges in the Appendix is the complete list of charges for which the Commission is setting prices in the FPP determinations**

- 1 Spark has asked the Commission to add services and charges to the FPP process that have not been included before and to add sundry charges.
- 2 We set out below why these additional services are outside the scope of the FPP processes.
- 3 We do not believe that the following transaction services can be included in the UCLL FPP determination process:
  - 3.1 Item 1.7 MPF Relinquishment – this was not reviewed in the IPP determination.
  - 3.2 Item 1.8 MPF Move Address – this is a sundry charge and was not reviewed in the IPP determination.
  - 3.3 Item 1.4 Bulk Transfer – project management – this is a sundry charge and was not reviewed in the IPP determination charge.
  - 3.4 Item 1.5 Exception to BAU Support – this is a sundry charge and was not reviewed in the IPP determination.
  - 3.5 Item 1.6 Bulk line transfer for a single End User support – this is a sundry charge and was not reviewed in the IPP determination.
  - 3.6 Item 1.9 Remote Tie Cable Service installation – this is a sundry charge and was not reviewed in the IPP determination.
- 4 We do not believe that the following transaction services can be included in the UBA FPP determination process:
  - 4.1 Item 2.9 BUBA Handover Connection monthly charge – GigE – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.2 Item 2.10 EUBA Handover Connection monthly charge – GigE – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.3 New EUBA Handover Connection monthly charge – 10 GigE – this is outside the FPP process and would need to be considered under a separate section 30R review (it would also likely be a sundry charge). We also note that as it has not previously been included in the STD there is no current charge – the commercial pricing under the UFB contract is not relevant.

- 4.4 Item 2.11 Handover Connection monthly charge – STM1 capacity – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.5 Item 2.12 Handover Connection monthly charge – STM4 capacity – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.6 Item 1.42 BUBA Handover Connection Installation – GigE – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.7 Item 1.43 EUBA Handover Connection Installation – GigE – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.8 New EUBA Handover Connection Installation – 10 GigE – this outside the FPP process and would need to be considered under a separate s30R review.
  - 4.9 Item 1.44 Handover Connection Installation – STM1 capacity – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.10 Item 1.45 Handover Connection Installation – STM4 capacity – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.11 Item 1.48 Re-mapping Design Charge – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.12 Item 1.49 Access Re-Mapping Fee – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.13 Item 1.37 Exception to BAU Order - POA – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.14 Item 1.46 Relinquishment of Access Seeker Handover Connection – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.15 Item 1.47 Handover Fibre Installation – POA – this is a sundry charge and was not reviewed in the IPP determination.
  - 4.16 New bulk transfers between Chorus services (over end users) – POA. We are unsure what this transaction service is meant to cover. We have assumed it relates to batching of orders across different RSPs at the same geographic location. We do not believe a new transaction service is required because batching is already factored into the service company charges.
- 5 We note Spark’s comment that its Appendix should be augmented to include all STD charges and ancillary charges (which are sundry) should be added to this list and

additional items that reflect an efficient FPP network.<sup>14</sup> We make the same comments as set out above in respect of that proposal too.

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<sup>14</sup> Sparks submission on the Consultation Paper, dated 9 October 2014, see para 17.

**APPENDIX 2: OUR RESPONSE TO THE TRANSPARENCY ISSUES RAISED BY SPARK**

Connections (Provisioning)	Chorus Response
i. Where the connection occurred (not provided currently). This would enable RSPs to align delivery of services at a particular physical location.	Typically, we would expect the RSP to provide this information to Chorus when it places its order for us to provide the connection, as the RSP has the relationship with the end user. The RSP is able to provide its own reference into the OO&T order to allow it traceability back to its own systems/references.
ii. What the specific circuit connected was (provided). We currently get this as a non-reusable reference called an "ASID" (Access Seeker Identifier). Example = "1624724016".	The ASID (Access Service Identifier) is returned via OO&T against the order placed by the RSP and is a re-usable reference for the duration of that service instance. It changes when the service changes (e.g. address changes, service provider changes etc.) at which point the new ASID is provided to the RSP.
iii. What service (provided). Example = "3IWOU" with a description of "Convert Connection Only to C&W" which indicates that a \$0.00 (no truck roll) connection of a UBA service was 'upgraded' by Chorus to a truck roll (Connection and Wiring) event @ \$145.05.	Both the SPOT and billing description are provided via eBill when charges are billed to the RSP. In addition for UBA, the billing descriptions are provided in OO&T to show what the charges the RSP can expect on the invoice.
iv. Why the charge occurred (not provided currently). There is nothing to indicate the level of 'intact-ness' of the network to support the connection of the service. This is key because without knowing this the RSP is unable to determine whether the service is intact or a connection charge applies.	This has not been an issue for UBA to date as charges were either Connection Only or Connection & Wiring. As noted above, both the SPOT code and billing description are provided via eBill when charges are billed to the RSP. In addition, for UBA, the billing descriptions are provided in OO&T to show what the charges will be. Once fully implemented the "new" SPOTs and billing descriptions will differentiate between the various connection charges in the UBA STD.



<p>v. When the connection occurred (provided for some but not all transactions). Service Delivery Date should be provided for all transactions as it is the data that the billing window (180 days) for Chorus is calculated from.</p>	<p>RFS dates are provided on each OO&amp;T order and the rental charges are billed from the connection date. Dates are always provided for rental charges.</p>
<p>vi. Site Documentation (not easily available). When a connection event generates technician tasks at the site requiring entry to the premises the RSP can find it difficult to obtain supporting documentation in a timely fashion. This data may be necessary to support enquiries from OSH, Privacy and QoS perspectives as well as to support onbilling for additional services provided to the end-customer.</p>	<p>We are not certain what is meant by Site Documentation. However, generally, the RSP should be advising Chorus of services required (i.e. ordered) and any relevant information regarding OSH/Privacy etc. as they are responsible for dealing with the end user. Information on any additional charges is provided to the RSP via eBill and OO&amp;T as detailed above.</p>
<p><b>Faults (UBA Reactive Maintenance)</b></p>	<p><b>Chorus Response</b></p>
<p>i. Where the fault occurred (not provided currently). This would enable RSPs to align delivery of services at a particular physical location to better manage quality of service to the end-customer i.e. are we seeing multiple faults at 123 Somewhere Lane, Nosville.</p>	<p>As above, the ASID is reusable and is provided by the RSP when they log the fault. This provides traceability back to their own systems/information relating to end-customers.</p>
<p>ii. What specific circuit was fixed (provided). We get this as a non-reusable circuit reference called an "ASID" (Access Seeker Identifier). Example = "1624724016". It is referred to as non-reusable because it is only valid for the duration of the end-customer/circuit combination. When the customer changes at the address the ASID changes – so...no reliable continuity.</p>	<p>When the ASID changes, it is provided to the RSP via OO&amp;T, in the same way phone numbers were used i.e. they also often changed when end users changed address.</p>

<p>iii. What service (provided). Example = "4INFF" with a description of "Diagnosis fee no fault found" which indicates that a fault was investigated but no fault in the CHORUS network was identified. UCLL and UBA FPP pricing review Public version 14.</p>	<p>This is provided via eBill whenever charges are applied, they are also provided on ABR reports which are provided weekly to RSPs.</p>
<p>iv. Why the charge occurred (not provided currently). Under the Baseband and Field Services trades we receive a 'Trouble Found Code' (&amp; Description) which enables the RSP, if they wish, to generate a customer facing charge to recover costs if the root cause was under the control &amp; responsibility of the end-customer. For example if the cause is diagnosed to a faulty customer modem.</p>	<p>This is provided via the "ABR" reports which are provided to RSPs weekly to allow them to on-bill end users earlier, so they don't have to wait for their monthly billing file.</p>
<p>v. When the connection occurred (provided for some but not all transactions). Service Delivery Date should be provided for all transactions as it is the data that the billing window (180 days) for Chorus is calculated from.</p>	<p>This is provided via the "ABR" reports which are provided to RSPs. The report provides the date the fault was logged, the scheduled time for the technician to attend and the date closed.</p>
<p>vi. Site Documentation (not easily available). When a fault event generates technician tasks at the site requiring entry to the premises the RSP can find it difficult to obtain supporting documentation in a timely fashion. This data may be necessary to support enquiries from OSH, Privacy and QoS perspectives as well as to support on billing for additional services provided to the end-customer.</p>	<p>We are not certain what is meant by Site Documentation. However, generally the RSP should be advising Chorus of services required (i.e. ordered) and any relevant information regarding OSH/Privacy etc. as they are responsible for dealing with the end user. Information on any additional charges is provided to the RSP via eBill and OO&amp;T as detailed above.</p>

42. We are further considering the information that could be provided relating to network faults. At this stage, around 25% of customer reported faults are charged to RSPs as no fault found or cancelled truck rolls. A clear definition of when cost responsibility transfers from one party to another and cause of charged truck rolls will promote efficient maintenance of the network. For example, incentives to maintain the network are lessened where the access provider does not face the full costs of such faults through straight pass through of fault costs to RSPs.

Abortive site visits and No Fault Found charges are not related to network faults, they are incurred when either the end user cancels or there is no fault on the Chorus network. CPE related faults (customer phones / modem / filters etc.) are a large contributor to No Fault Found charges. Removing Chorus' ability to charge will promote inefficient use of resources as there is no incentive on RSP's to perform any diagnosis or make any efforts to arrange site visits with end users.