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Rural Women New Zealand

**Submission on draft pricing review determinations and
emerging views on backdating**

About Rural Women New Zealand

1. Rural Women New Zealand ('RWNZ') is a charitable member based organisation that reaches into all rural communities and advocates on issues that impact on those communities. We welcome the opportunity to comment on the Commerce Commission's ('the Commission's') draft pricing determinations and its 'emerging views on backdating' paper.

Overview of submission

2. In this submission we make the following points:
 - Higher wholesale prices will not achieve the section 18 purposes of the Telecommunications Act 2001 (the Act) to "promote competition in telecommunications markets **for the long-term benefit of end-users**". Ultimately consumers will be left paying higher retail prices, with no guarantee from Chorus of service quality improvements. We think that there are grounds under the Act for the Commission to adjust final prices down to address these section 18 impacts.

- While copper remains the only option for telecommunication services in many rural areas, it is imperative that the Commission pay special consideration to the rural impact of its decision making. Rural communities remain heavily reliant on Chorus' copper network, yet service quality is declining in these areas. It is unacceptable to expect rural consumers to pay more for a declining quality of service. RWNZ recommend that the Commission carry out a full and thorough rural impact assessment before proceeding with a decision on final prices. This is not about special treatment for rural areas, but about acknowledging the special reliance that rural communities place on Chorus' copper network and understanding how rural communities could be disproportionately disadvantaged.
- RWNZ does not support backdating of final prices. Backdating will further increase retail prices for consumers, with no apparent benefit for end-users. RWNZ recommend that current interim prices remain operative until completion of the pricing review. Retailers should commit to pass on any cost-savings to consumers.

Commission must view final prices with respect to their end-user impact

3. Section 18 clearly states that the purpose of the Act is to “promote competition in telecommunications markets **for the long-term benefit of end-users** of telecommunications services within New Zealand”. This purpose statement must govern the exercise of all regulatory power by the Commission. In particular, where there is an inconsistency with other sections of the Act – including those relating to the process for setting prices –the section 18 goals must take primacy.
4. The Commission’s proposal to increase wholesale prices is contrary to this purpose. Ultimately consumers will be left paying higher retail prices, with no assurance of service quality improvements. A number of retailers have already pre-emptively increased retail prices in anticipation of wholesale prices increasing. For example, the monthly price for a Spark entry level broadband (40G) and home line package has increased from \$75 to \$79. This is a substantial change in price for consumers. 32% of surveyed RWNZ members rated the effect of Spark’s price increase on their household finances as “very significant”.
5. Further, there is no indication that end-users will benefit from higher prices through service quality improvements. The Commission has not pointed to any commitment by Chorus to

further invest in its copper network. The only plans for future investment in the copper network has already been paid for through the Government's RBI fund.

Limited competition means that rural communities will be disproportionately affected by wholesale price increases

6. The particular impact for rural NZ, where copper remains the only option for telecommunication services, must be given special attention by the Commission. Migration to the Ultra Fast Broadband network is not an option for the majority of end-users in rural parts of the country today, or in the foreseeable future. While work is being done to improve mobile and satellite services in rural areas, feedback from our members suggests that mobile reception is still unavailable in many parts of the country, and where it is available, coverage is patchy and unreliable. Satellite is also relatively still very expensive.
7. The quality and reliability of Chorus' copper network in rural areas also remains an ongoing concern. A third of surveyed RWNZ members rated the quality of their existing fixed line telephone and internet service as 'Poor', with 28% reporting that the quality of their existing broadband services appears to have declined over the last two years.
8. TrueNet's quarterly Rural Broadband report shows a significant mismatch between standard rural and urban ADSL broadband speeds and evidence for the fact that broadband speeds in rural areas are in fact declining. This report states that:
 - *"Rural ADSL has significantly declined since December 2013 when it was already much worse than Urban ADSL performance"*
 - *"Should the trend in declining rural broadband continue, many more users will find their Broadband connections almost unusable during the busy periods. Many rural broadband users see their speed drop in the evenings to just 82% of the speed the connection is capable of. This will often mean websites do not download, files take a long time to appear, or even fail to be delivered due to timeouts"*
9. In today's environment, ensuring rural communities have access to an acceptable quality of telecommunication services, must be considered a basic social and economic right. Telecommunication services provide an important means of social connection and inclusion in

rural areas and a vital lifeline in emergency situations. The government has repeatedly identified lack of adequate broadband as one of the key barriers to growth for the rural economy.

Backdating is inconsistent with section 18

10. The Commission's powers to backdate are discretionary only and (again) must support the section 18 purposes of the Act. We think that the Commission's paper on backdating fails to articulate how a decision to backdate will translate into clear and direct benefits for end-users. Nor has the Commission provided any assurance that Chorus will use this wealth transfer to invest in improvements to network quality. We are concerned that a wealth transfer of this type, will equate to nothing more than increased returns for Chorus' shareholders.
11. Again, the inconsistencies between a decision to backdate and the section 18 purposes of the Act are impossible to ignore. A decision to backdate will:
 - negatively affect consumers through further increases to retail prices. A number of retailers have already pre-emptively increased retail prices to incorporate potential future backdating costs;
 - prevent retailers from being able to compete on the basis of lower prices today, and from passing on potential cost savings to end-users. The current interim prices were intended to deliver significant cost-savings to the industry, with the expectation that these would be passed onto end-users;
 - harm retail competition in the market by reducing the competitiveness of small retailers, and potentially causing firms to exit the market. While, the Commission has not forecasted the impact that backdating will have on retailers, it acknowledges that the amounts involved could be "substantial enough to cause a firm to exit the market" Retail competition is already an issue in rural areas, with Spark retaining a monopoly share of the market; and,
 - introduce further price uncertainty in the market. Final prices are still uncertain, and subject to Commerce Commission decision making. A decision to backdate, will force retailers to make pricing decisions today based on their best judgement of what final prices will look like. Ultimately end-users will end up bearing the risk of this decision making, with no promises of being compensated by Retailers, who over-recover on their estimates.

Summary and Recommendations

12. Higher wholesale prices will not achieve the section 18 purposes of the Act and will have a disproportionate effect in rural areas, where end users remain heavily reliant on Chorus' Copper network.

RWNZ recommend:
<ul style="list-style-type: none">• Final prices are adjusted downwards to account for the Section 18 impacts of the Commissions proposed price increases; and• The Commission carry out a full rural impact assessment on the effect of higher wholesale prices

13. Final prices should not be backdated, as this will only result in further retail price increases.

RWNZ recommend:
<ul style="list-style-type: none">• Current interim prices remain effective until completion of the pricing review. Retailers should commit to pass on any cost-savings to the consumer;• The Commission abstain from making any decision in favour of backdating until it has forecasted the impact this would have on retail service providers, and in turn the potential flow on effects for consumer;• Any decision in favour of backdating is supported by mechanisms to mitigate the impacts on retail service providers and/or consumers; and,• Any decision in favour of backdating is supported by a clear commitment from Chorus to reinvest in the copper network.

We would be pleased to speak/discuss this submission with you.

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