

23 October 2014

Section 100 Orders for the UBA and UCLL FPP Proceedings

1. The Commission has today issued confidentiality orders under section 100 of the Commerce Act 1986 (the Act) for the purposes of our price review determinations for the unbundled bitstream access (UBA) and unbundled copper local loop (UCLL) (the proceedings). The orders are attached.
2. The orders provide a framework for making available information provided to the Commission to designated person. The orders govern non-public information provided to the Commission in relation to the proceedings, including:
 - 2.1 any information provided and identified as confidential information in submissions to the Commission made in the proceedings, and
 - 2.2 any information provided under a section 98 notice issued under the Commerce Act 1986 in relation to the proceedings, including any such information provided prior to the date of the orders.
3. A copy of this letter and the orders will be published on our website.
4. This letter is being sent to:
 - 4.1 Parties that have nominated persons to access information provided to the Commission for the purposes of making submissions in regards to the proceedings
 - 4.2 Parties that have supplied information to the Commission in relation to the proceedings in accordance with compulsory information disclosure notices made under section 98 of the Act.
5. This letter sets out some of our decisions in relation to the orders and information provided to the Commission for the proceedings, and steps parties should now take to:
 - 5.1 Request additional protection for information previously supplied to the Commission under a notice issued under section 98 of the Act in relation to the proceedings
 - 5.2 Sign up the nominated persons the Commission has determined are entitled to access restricted information in accordance with the orders.

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6. This letter is only a guide to the provisions and requirements of the orders. Parties should refer to the orders and accompanying deeds of undertakings for an understanding of their rights and obligations under the orders.
7. Under the terms of the orders, parties may submit a request for additional protection of information previously supplied to the Commission in response to a notice issued under section 98 of the Act. Any request for additional protection must be received by 4 November 2014.
8. We have reviewed the parties' nominees for access to information governed by the orders, including nominated counsel and internal and external experts. Those individuals we have determined may access restricted information in accordance with the orders are specified in the attachment to this letter.
9. In determining who may have access to restricted information in accordance with the orders, we have considered, amongst other things, the individual's ability to provide specialist expertise or knowledge that may materially contribute to the Commission's determination of the proceedings; the individual's role in, or contribution to, strategic or commercial decision-making of the party nominating them; and the likelihood of any commercial prejudice to a party should the person have access to restricted information in accordance with the orders.
10. To access information governed by the orders, individual persons, including nominated counsel, internal experts, or external experts, must sign the deed of undertakings attached as schedule 1 to the orders, and provide the signed deed of undertakings to the Commission.
11. Subject to the Commission's review of any requests for additional protection, persons who sign the undertakings may access restricted information three working days following the Commission:
 - 11.1 Adding the names of the persons to schedule 2 of the orders, and
 - 11.2 Providing a copy of the amended schedule 2 to nominated counsel, and
 - 11.3 Publication of the amended schedule 2 on the Commission's website.
12. We therefore request that nominated counsel provide signed deeds of undertaking from each nominated person listed in the attachment to this letter.
13. We have also received a request for two additional nominated persons:
 - 13.1 Robert Allen, an external expert economic advisor, for CallPlus
 - 13.2 Eric Liu, Principle Architect, Vodafone New Zealand.

14. Our preliminary view is that these persons may access restricted information in accordance with the orders. Parties may submit any objections to their nomination, in writing, by 28 October 2014.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Keston Ruxton', written in a cursive style.

Keston Ruxton

Encl.

Attachment – Nominated counsel and nominated experts

CallPlus Limited

Nominated Counsel:

- Michael Wigley, Wigley & Co.

External experts:

- Robert Allen

Internal experts:

- Steve Langridge, Business Intelligence Officer

Chorus Limited

Nominated Counsel:

- Matthew Conrad Hayes, Senior Counsel, Regulatory & Competition, General Counsel's Office
- Airihi Colleen Mahuika, Principal Counsel, Regulatory & Competition, General Counsel's Office

External experts:

- Peter James Allen, Partner, Analysis Mason
- Gilles Paul Monniaux, Principal, Analysis Mason
- Andrew Martin Daly, Manager, Analysis Mason
- Matthew Richard Starling, Manager, Analysis Mason
- Michal Jozef Gabrielczyk, Consultant, Analysis Mason
- Gentiana Shiko, Consultant, Analysis Mason
- Loïc Pierre Tchoukriel-Thébaud, Consultant, Analysis Mason
- Burcu Bora, Associate Consultant, Analysis Mason
- Maria Koshkina, Associate Consultant, Analysis Mason
- Adrian Mark Dain, Principal Consultant, Analysis Mason
- Janette Stewart née Dobson, Principal, Analysis Mason
- Khooshiram Oodhorah, Manager, Analysis Mason
- Valerie Gualde, Project editor, Analysis Mason
- Thomas Nicholas Hird, Director, CEG
- Jason Peter Ockerby, Director, CEG
- Daniel James Young, Associate Director, CEG

- Johanna Linnea Charlotte Hansson, Senior Economist, CEG
- Annabel Davina Wilton, Economist, CEG

Spark New Zealand Limited

Nominated Counsel:

- Sasha Daniels, Senior Counsel, Competition and Regulation

External Counsel:

- Craig Shrive, Russell McVeagh

Internal experts:

- Nick Haywood, Regulatory Manager
- Anton Nannestad, Head of Regulatory Economics and Modelling
- Gavin Smart, Product and Network Economics Manager

External experts:

- Dr Suella Hansen, Network Strategies
- Dr Karl-Heinz Neuman, Wik Consult
- Dr Thomas Pluckebaum, Wik Consult

Vodafone New Zealand Limited

Nominated Counsel:

- Tom Thursby, Lead Counsel – Competition & Regulatory
- Mitchel Cooper, Senior Public Policy Advisor

Internal experts:

- Tamara Linnhoff, Senior Public Policy Analyst
- Eric Liu, Principle Architect
- Alex Wong, Radio Design Engineer

External experts:

- Dr Suella Hansen, Network Strategies
- Dr Karl-Heinz Neuman, Wik Consult
- Dr Thomas Pluckebaum, Wik Consult