

**APPLICATION FOR PRICING REVIEW DETERMINATION
UNDER SECTION 42
TELECOMMUNICATIONS ACT 2001**

Date: 5 February 2013

The Director
Telecommunications Branch
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to section 42 of the Telecommunications Act 2001 (“the Act”) notice is hereby given seeking a **pricing review determination** for a designated access service.

Enclosed is the proof of the required initial payment of \$22,500 (inclusive of GST).

We acknowledge that we may be required to meet any additional application costs incurred by the Commerce Commission (“the Commission”). We agree to make periodic payments, as invoiced, to reimburse the Commission for a portion of the costs it incurs in completing the determination requested. Furthermore, we acknowledge that in relation to the application and the determination we may be required to meet some or all the costs that were incurred by the other party to the determination (including costs incurred by the Commission that were invoiced to the other party).

**DETERMINATION DETAILS
TO BE COMPLETED BY ALL APPLICANTS**

THE PERSON GIVING NOTICE

- 1 Notice is hereby given by Telecom New Zealand Limited (“**Telecom**”)
All enquiries regarding this application should be made to:

John Wesley- Smith
General Manager Regulatory Affairs
Telecom New Zealand Limited
Level 9, Telecom Central – Boulcott
42-52 Willis Street,
Wellington
DDI: +64 (0)4 4989435; Mobile: +64 (0)27 4735638
Email: john.wesley-smith@telecom.co.nz

PRICE AND SERVICE DESCRIPTION

*Provide a detailed description of the service for which a **pricing review determination** is sought and specify the specific price or prices for which a review is sought.*

- 2 Telecom seeks a review of the price for the designated access service entitled Chorus' unbundled copper local loop network service ("UCLL"). Specifically, those parts of the Final Determination on the benchmarking review for the unbundled copper local loop service issued by the Commerce Commission ("**Commission**") on 3 December 2012 (Decision No. NZCC 37) ("**Determination**") that relate to:
 - 2.1 the updated geographically averaged monthly UCLL service price of \$23.52;
 - 2.2 The geographically de-averaged prices for UCLL;
 - 2.3 Certain one-off charges and circumstances when certain one-off charges can be levied.

JUSTIFICATION FOR APPLICATION

On what grounds is a determination being sought? Explain in detail why the applicant considers, given the purpose of the Act, that the Commission should make a determination:

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- 3.1 The ground on which an application is made is that Telecom is a party to the UCLL Determination. From 1 December 2014 Telecom will be an access seeker for UCLL. Prior to 1 December 2014 the price Telecom pays to Chorus for the unbundled copper low frequency service (“UCLF” or baseband), the input to our retail voice services, is the same as the UCLL price determined by the Commission. Furthermore, Telecom is the largest purchaser of the designated access service, Unbundled Bitstream Access service (“UBA”), from Chorus. The price for UBA is determined with reference to the UCLL price and accordingly the FPP Determined price for UCLL has a material bearing on the price we pay for UBA.
- 3.2 Telecom is mindful that a Price Review Determination in which the Commission is asked to apply a final pricing principle has not previously taken place in New Zealand. We are also aware that Chorus Limited (“Chorus”), the regulated UCLL Access Provider, has informed the New Zealand Stock Exchange, and set out in its submission on Unbundled Bitstream Access pricing dated 2 February 2012, that it intends to apply for a review of the Determination and request that the Commission apply the FPP.
- 3.3 Because it is the first such application in New Zealand we are mindful that there is some uncertainty in respect of the FPP process, the parties’ rights within it and the likely method for proceeding..
- 3.4 In the circumstances Telecom files this application in order to protect its procedural rights in the Final Pricing Review process by ensuring it has the procedural protections and rights that are accorded applicants in the Final Pricing Review determination process..
- 3.5 Our objective is simply to obtain regulatory certainty in respect of our input costs through the application of a competitively-neutral and appropriate TSLRIC cost-based price to the UCLL service.

PARTIES TO DISPUTE

- 4 Identify the parties to the determination if the determination was made under section 27 of the Act:

Although the Determination under review is a STD under section 30M and not a determination under section 27 we set out our standing in this section for completeness.

- 4.1 Telecom is a telecommunications company that supplies telecommunications services at retail and wholesale. We purchase various regulated and commercial services from Chorus as inputs to enable us to provide retail services to end-users;

4.2 The Access provider is Chorus Limited.

REQUIREMENTS FOR APPLICATION

5 *If an initial determination has not been made and the only term at issue is the discount specified in the applicable initial pricing principle, provide answers to the following questions*

5.1 N/A – an initial determination has been made.

6 *If an initial determination has been made, what factors does the applicant consider indicate that the price or prices set in the initial determination were not appropriate?*

6.1 The initial determination based on the benchmarked prices under the IPP may not have adequately approximated the FPP. There are many inputs into TSLRIC cost models, many of which may be subject to New Zealand-specific factors that cannot be sufficiently accounted for in an international benchmarking process. We simply will not know to what extent, or not, the initial price reflects the true TSLRIC cost of the service until a TSLRIC costing exercise is undertaken. T.

TERMS OF DETERMINATION

7 Propose the price or prices the applicant considers should be payable for the designated access service, and justify why the price proposed is appropriate.

The information supplied should show how the price proposed meets the relevant pricing principles in the Act.

7.1 We think that prices that reflect the reasonable TSLRIC costs to provide the UCLL service (including a reasonable margin) should be determined.

7.2 We intend to make more detailed submissions on how that price should be determined and what a likely final price should be during the FPP process.

7.3 Further information in support of the proposed price and proposed process will be provided during the course of the FPP process.

7.4 We will provide more detailed submissions on why the application supports the purpose during the scoping phase of the FPP process.

8 Propose the terms and conditions on which the applicant considers the determination should be made, and justify each why each term and condition proposed is required.

8.1 We intend to make more detailed submissions on terms and conditions during the FPP process but at this stage do not have any detailed objections to the balance of the STD terms other than the price.

9 Propose the actions (if any) that the applicant considers a party to the determination must do or refrain from doing, and justify why each action proposed is required.

9.1 We intend to make further submissions on this during the FPP process.

10 In respect of a determination under section 27 of the Act, propose the period of time for which the applicant considers the determination should apply, and justify why the period proposed is appropriate.

10.1 N/A

CONFIDENTIALITY

12 Do you wish to request a confidentiality order for:

12.1. Specific information contained in or attached to the application?

12.1.1. We do not wish to apply for any information in the application filed today to be confidential.

12.1.2. We reserve our right to require that any of the information submitted during the FPP process is maintained as confidential.

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DECLARATION

THIS application is made by

Telecom New Zealand Limited

Telecom hereby confirms that:

- all information specified by the Commerce Commission (“the Commission”) has been supplied;
- all information known to the applicant/s which is relevant to the consideration of this application has been supplied; and
- all information supplied is correct as at the date of this application.

Telecom undertakes to advise the Commission immediately of any material change in circumstances relating to the application.

Dated this 5th day of February 2013 .

Signed by Melissa Anastasiou:



General Counsel
Telecom New Zealand Limited

I am an officer of the company and am duly authorised to make this application.

PLEASE NOTE

- The declaration is to be made only by the applicant. It may not be made by a solicitor or other adviser acting on the applicant's behalf.
- The wording in this declaration may not be varied by the applicant.
- If this declaration is not completed, the Commission may decline to register the application.
- Registration of an application can, if desired, be effected on receipt by the Commission of a facsimile copy or email of a completed application together with the confirmation of deposit of the appropriate fee to the Commission's account. The original documentation must be forwarded to the Director, Telecommunications Branch, Commerce Commission, PO Box 2351, Wellington, within 3 working days of registration. For account details, contact the Commission on (04) 924 3600.



Payment details

05 February 2013 15:57 NZST

Office: Telecom NZ Ltd - Treasury
 Value date: 05 February 2013
 Bank reference: 31896391
 Currency: NZD

Payment type: New beneficiary
 Payment status: Completed

Debit account details

From account: TCNZ Finance 030584 00031109 0000
 Amount: NZD 22,500.00

Description: Particulars Analysis code Reference
 Commerce Com Telecom NZ Fee

Beneficiary summary

ID	Details	CTY	CCY	Amount	Status
37776062	COMMERCE COMMISSION	NZ	NZD	22,500.00	PROCD

1 Beneficiaries totalling NZD 22,500.00

Same Day Cleared Payment means an electronic real time, irrevocable payment, in New Zealand dollars.

Status codes:

CANCL - Payment cancelled / deleted
 ERROR - Payment to beneficiary is rejected
 INPRG - In progress
 MANUL - Payment processed manually

PROCD - Processed
 RFUSD - Payment refused
 UNPRC - Unprocessed

Additional payment information

Created by: J Mackay
 Last updated by: J Mackay
 1st authorisation: K Patel
 2nd authorisation: M Natu

Date and time: 05 February 2013 15:22 NZST
 Date and time: 05 February 2013 15:23 NZST
 Date and time: 05 February 2013 15:44 NZST
 Date and time: 05 February 2013 15:52 NZST

*** END OF LIST ***

Westpac Banking Corporation, ABN 33 007 457 141.

