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## **TRUSTPOWER SUBMISSION: REVIEW OF DESIGNATED AND SPECIFIED SERVICES UNDER SCHEDULE 1 OF THE TELECOMMUNICATIONS ACT 2001**

### **1 Introduction**

- 1.1.1 Trustpower Limited (Trustpower) welcomes the opportunity to provide a submission to the Commerce Commission (the Commission) on its *Draft Decision on whether to commence an investigation under clause 1(3) of Schedule 3 of the Telecommunications Act 2001* (the Draft Decision).
- 1.1.2 The focus of our submission is on the Commission's Draft Decision that there are reasonable grounds to investigate the deregulation of wholesale access to Spark's voice services. We believe that, while there are other services in the market, there is not a direct substitute for Spark's voice services that is capable of acting as a constraint on them. Accordingly, we do not believe that now is the time to deregulate these services.
- 1.1.3 The second part of our submission discusses the possible introduction of new services. We believe that email portability warrants an investigation by the Commission, and we also ask that the Commission keeps MVNO services on its radar.

### **2 We do not believe there are reasonable grounds to deregulate Sparks voice services**

- 2.1.1 The Commission's draft decision is that there are appropriate grounds to commence an investigation into whether to deregulate Sparks designated resale services. It is seeking views on the extent to which Baseband IP acts as a competitive constraint on Spark's supply of resale services.

- 2.1.2 We do not believe that competition has developed to the extent that continued regulation is no longer required. While Baseband IP has the potential to compete with Sparks PSTN services, we do not believe that it is a direct substitute, nor do we believe that Baseband IP currently acts as a genuine constraint on Spark's supply of resale services, for the following reasons:
- a) As noted in the Commission's submission, Chorus' Baseband IP has limited coverage across New Zealand. Accordingly, we believe that RSP's will always need to have an agreement with Spark for PSTN services. Baseband IP cannot be directly substituted in totality for PSTN services. If the price is not regulated, we are concerned that Spark will continue to take advantage of that opportunity.
  - b) We also note that RSP's commercial agreements with Spark include rebates based on term and/or volume. If RSP's on board Baseband IP, or wish to adopt a hybrid approach with wholesale PSTN and Baseband IP, rebates are lost. To maximise the benefit of Baseband IP, an aggressive migration programme is required.
  - c) Chorus currently has limited capacity and capability to migrate customers to Baseband IP in great volume without detriment to customer experience. Mass migration to Baseband IP services is not currently an option for us or other RSP's nationwide as this migration requires truck rolls to each cabinet or exchange.
  - d) PSTN is currently offered in a discriminatory manor. RSP's across New Zealand do not pay the same for wholesale PSTN from Spark as a result of the term and volume discounts.
  - e) There is significant investment, time, and money required by RSP's to migrate from the wholesale PSTN service and on-board Baseband IP to a position where it is a viable alternative.
  - f) Spark has increased prices since Baseband IP has been in the market. For example, Spark increased prices of its wholesale POTs in February 2015, with the threat of backdating pending the FPP decision in December 2015. Spark has still not refunded this unwarranted price increase back to retailers, end users and RSP's. We have no option but to continue to purchase wholesale PSTN services as Baseband IP has limited coverage over New Zealand.
- 2.1.3 For these reasons, we do not believe that competition has developed to such an extent that continued regulation is no longer needed to promote competition. We believe that competition from other technologies, such as Baseband IP, is still developing, and that now is not an appropriate time to consider deregulating these services. If anything, we believe that the wholesale price calculations could be revisited taking into account bundled pricing, or calculated using a cost-based methodology.

### **3 Introduction of new services**

#### **3.1 Email portability**

- 3.1.1 We agree with the Commission that number portability should remain in Schedule 1 of the Act because it promotes competition by facilitating consumers switching between providers. However, email address portability remains a barrier for consumers switching between providers. The fact that a consumer cannot take their email address with them (or must pay a material amount to do so) is, for many consumers, a substantial barrier to migrate to another ISP. We also note that email addresses are being used more and more by consumers as username credentials for a variety of log-ins. This further increases the barrier to switching.

- 3.1.2 As an example, in the past week, about one quarter of our sales agents reported losing at least one sale due to email portability issues. Extrapolating that out, a lack of email portability is affecting approximately 800 of our sales per year. Our current telecommunications proposition targets segments of the market that are less likely to find a lack of email address portability a barrier to switching, so this number would be more significant if our proposition was different. We believe that the status quo limits the options of a large number of consumers who find a lack of email portability a real barrier to switching.
- 3.1.3 Email portability as a barrier to switching has also been recognised by the Productivity Commission:<sup>1</sup>
- Telephone number portability has reduced switching costs for consumers and strengthened competition among telecommunications providers. The absence of email address portability is a remaining barrier to switching for consumers who use the email address offered by their internet service provider. The New Zealand Telecommunications Forum should investigate mechanisms to enable business and residential customers to switch internet service providers without losing access to emails. If a viable low-cost option exists, it should be implemented.
- 3.1.4 Trustpower has raised email portability with the New Zealand Telecommunications Forum (the TCF) a number of times as being a key industry issue and barrier to competition. While the TCF CEO has acknowledged that the issue is worthy of debate, the larger carriers on the Board have continually prevented the issue from being discussed.
- 3.1.5 Accordingly, we believe that this issue needs be addressed by the Commission. We ask that the Commission consider whether an email portability service should be added to Schedule 1 of the Act.

### **3.2 Mobile Virtual Network Operator (MVNO) services**

- 3.2.1 We are currently in the process of issuing a Request for Proposals for MVNO services. We hope to agree mutually beneficial terms with a service provider within the next few months. However, we have concerns that inadequate competition exists in this market, which may limit our ability to acquire an MNO partner. We will keep the Commission informed of our progress, and will seek further discussions with the Commission if we consider that the market is not operating competitively. We ask that the Commission keep this issue on its radar, and be willing to engage with us if necessary.
- 3.2.2 For any questions relating to the material in this submission, please contact me on 07 572 9888.

Regards,



**JESSICA BEVIN**  
**REGULATORY ADVISOR – UTILITIES MARKETS**

Trustpower\_Designated\_Specified\_Services\_Review\_May16\_v1.0

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<sup>1</sup> Productivity Commission, *Boosting productivity in the services sector*, May 2014, page 5. Refer also to chapter 6.