



**FINAL COST CALCULATION DETERMINATION FOR TSO INSTRUMENT
FOR TELECOMMUNICATIONS RELAY SERVICES FOR THE PERIOD
BETWEEN 1 JULY 2010 AND 30 JUNE 2011**

This Final Cost Calculation Determination is required under section 94J of the Telecommunications Act 2001 and relates to the Telecommunications Service Obligations for Telecommunications Relay Services for the period 1 July 2010 to 30 June 2011.

The Commission:

Dr Ross Patterson
Anita Mazzoleni
Gowan Pickering
Pat Duignan

Date of Draft Determination:

8 December 2011

LIST OF DEFINED TERMS AND ABBREVIATIONS

Specified Amount	The total amount payable by the Crown under the TRS TSO Deed for the TSO period. ¹
Sprint	Sprint International New Zealand Limited.
SQM	Service quality measure.
STS	Speech to speech service.
TRS	Telecommunications Relay Services as described in the TSO Deed.
TSO	Telecommunications Service Obligations.
TSO Deed	TSO Deed for TRS between the Crown and Sprint dated 9 July 2004 including Addendums One to Six and a variation dated November 2010.
TSO period	1 July 2010 to 30 June 2011, being the period to which this determination applies.
TSO Provider	Telecommunications service obligation provider (Sprint for TRS).
TRS Provider	Sprint, the telecommunications relay service provider

¹ "Specified Amount" is also defined in section 71A of the Act.

EXECUTIVE SUMMARY

1. The Telecommunications Act 2001 ('the Act') regulates the supply of telecommunications services in New Zealand.
2. Sprint provides relay services under the TSO Deed to meet the telephone communication needs of deaf, deaf-blind, hearing and speech impaired people.
3. The TSO Deed is a TSO instrument under section 70 of the Act. As a result, Sprint is compensated by the Crown for the provision of the relay services.
4. This Final TSO Cost Calculation Determination determines the dollar amount of the TSO Deed's Specified Amount and sets out material information relating to the calculation of that amount.
5. The Commission has determined that the cost of providing the TRS under the TSO deed for the 2010/11 TSO period is \$2,209,190.40 (excluding GST). This sum qualifies as the "Specified Amount" and is payable by the Crown to Sprint in accordance with section 94L of the Act.
6. There were no performance rebates in the 2010/11 TSO period because the Commission has assessed that Sprint has complied with the service quality measures of the TSO Deed.
7. Section 94K(1)(e) requires the Commission to calculate the TSO provider's loss of use of the specified amount, calculated at the 90-day bank bill rate for the period commencing from the end of the TSO period and ending with the date of the final TSO cost calculation determination. The 90-day bank bill rate is 2.68% and the amount payable in interest for the 161 days qualifying for the loss of use amount payable is \$26,115.66. Therefore the total amount payable by the Crown to the TSO provider is \$2,235,306.06.

INTRODUCTION

8. The Telecommunications Act 2001 ('the Act') regulates the supply of telecommunications services in New Zealand.
9. Under Part 3 of the Act, the Commission is required to produce a cost calculation determination for the TSO Deed for each financial year.
10. This document is the Final TSO Cost Calculation Determination made under section 94J of the Act in respect of the TSO Deed for the TSO period. This Determination is also made in accordance with the requirements set out in Subpart 2A of Part 3 as described in Appendix 1 to this Determination.
11. This determination does not include any confidential material.

Submissions

12. The Commission released the Draft Cost Calculation Determination for the period 1 July 2010 to 30 June 2011 (the draft Determination) on 30 September 2011. The closing date for submissions was 14 October 2011. The Commission did not receive any submissions on the Draft Determination.

COST CALCULATION FOR THE TRS TSO

The TSO Deed for Telecommunications Relay Services

13. The current TRS TSO Deed requires the TSO Provider to:
- provide a range of services including text-to-voice conversation, voice-to-text conversation, and speech-to-speech relay;
 - meet the following service quality measures:
 - speed of answer for ordinary (non-emergency) calls; and
 - call congestion for ordinary (non-emergency) calls.
14. The TSO Deed for TRS was declared to qualify as a TSO instrument under section 70(2) of the Act.
15. As the TSO Deed contains a Specified Amount, the Commission is not required to determine the net cost to Sprint of complying with the TSO instrument.

The Specified Amount – the Requirements of the TSO Deed

16. The TSO Deed for the TRS contains a Specified Amount, which is calculated as the sum of the total annual fixed charge and the total annual variable charge as set out in Schedule 2 of the TSO Deed.² The Specified Amount is calculated based on the TRS provider's financial year.
17. The total amount payable to Sprint is the Specified Amount less any performance rebate calculated in accordance with the TSO Deed.
18. The annual fixed charge for financial year 7 is set out in Table 1 below and corresponds to the financial year of the TSO provider under the Act. Financial Year 7 coincides with the period for this determination which is from 1 July 2010 to 30 June 2011.

Table 1 Fixed Charges (GST exclusive)³

	Financial Year 1	Financial Year 2	Financial Year 3	Financial Year 4	Financial Year 5	Financial Year 6	Financial Year 7
Fixed Charge	\$608,499	\$755,833	\$809,599	\$422,613	\$229,120	\$132,373	\$132,373

19. The annual variable charge for each financial year is computed by adding together the traffic charge and that of any other activity charge specified in Schedule 2 of the TSO Deed.
20. The traffic charge is derived by adding together the total call charges for each month of the financial year. The total call charge for a month is derived by multiplying the chargeable call volume (in whole minutes) for the month by the applicable per minute charge as set out in Table 2.

² This requirement is set out in the original TSO Deed of 2004 and clause 4 of the November 2010 variation, entitled "Telecommunications Service Obligations Deed for Telecommunications Relay Services".

³ For financial year 7 – period 1 (16 November 2010 to 30 June 2011), the fixed charges are described in the Schedule to "Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services", 8 August 2011. For the period 1 July 2010 to 15 November 2010, the fixed charges are described in "Schedule One to Addendum Five which is labelled "Addendum Three Schedule One".

21. The chargeable call volume is the aggregate of the duration in seconds (without any session level rounding) recorded for all relay calls in the month converted to whole minutes. The duration of a relay call is the relay session time measured in seconds from when the incoming call to the TRS system is answered until the incoming call is released by the TRS system.
22. In November 2009 Addendum Five was added to the TSO TRS Deed. Addendum Five extended the duration of the Deed for 12 months (15 November 2009 to 15 November 2010) and adjusted the Traffic Charges for relay calls during the additional term.
23. In November 2010 a variation was agreed between the TSO parties to further extend the duration of the Deed to 30 June 2011 on the same charge rates⁴ and included a further option to extend up to 30 September 2011.
24. The Traffic Charges for Financial Year 7 for 1 July 2009 to 30 June 2010 are outlined below in Table 2.

Table 2: Financial Year 7 Traffic Charges (GST exclusive)⁵

Monthly Call Minute Volume	Charge Per Call Minute (1/7/2010 – 15/11/2010)	Charge Per Call Minute (16/11/2010 – 30/6/2011)
0 – 20,000	\$15.55	\$15.55
20,001 – 40,000	\$5.18	\$5.18
40,001 – 60,000	\$4.39	\$4.39
60,001 +	\$4.17	\$4.17

Notes:

- The charge per call minute applies only to relay calls.
- Calls by Internet Relay are included and calls to the Relay Help Desk are excluded

25. The activity charges specified under Schedule 2 of the Deed are as follows:

- **Supplementary Outreach Charge**

A charge of up to \$150,000 excluding GST per annum may be applied for the supply by the TSO Provider of additional quantities of outreach services (above the base quantities supplied that are recovered through the annual fixed charge) to promote the TRS and support TRS users. The extent to which such additional quantities of service are supplied shall be determined at the sole discretion of the Crown.

⁴ The applicable charges were clarified in the Schedule to Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 8 August 2011.

⁵ For financial year 7 – period 1 (16 November 2010 to 30 June 2011), the fixed charges are described in the Schedule to “Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services”, 8 August 2011. For the period 1 July 2010 to 15 November 2010, the fixed charges are described in “Schedule One to Addendum Five which is labelled “Addendum Three Schedule One”.

- **Trial Charge**
A charge may be applied for any service trial that the Crown requests and where the Crown and the TRS Provider have agreed the charge.
- **Other Charges**
A charge may be applied for a service or activity that the Crown requests and where the Crown and the TRS Provider have agreed the charge.

26. There were no activity charges for this TSO period.

Performance Rebate and Sprint's compliance

27. The performance rebate is set as part of the TSO determination for the TRS and constitutes the entire amount of the reduction (if any) in the amount that the TSO provider would receive from the Crown and is referred to in section 94K(c) of the Act. The rebate takes account of whether the TSO provider's actual service performance complies with the TSO Deed.
28. The performance rebate is composed of two categories of compliance assessment: service availability and service quality. The performance rebate is computed by summing the applicable discounts, if any, for each category.⁶
29. On 9 September 2011, the Commission advised the Minister for Communications and Information Technology that Sprint has complied with both of the applicable service quality measures set out in the Deed.
30. As Sprint has complied with the TSO Deed, performance rebates do not apply for the TSO period. Therefore, there is no requirement for the Commission to specify the amounts that are described in sections 94K (1) (c) and (d) of the Act in this determination.

Summary

31. For the 2010/11 TSO period, the Specified Amount for the TSO Deed is the sum of the specified variable amounts in Table 3 and the annual fixed charge in Table 4.
32. As required by section 94K (1)b), the Specified Amount for the 2010/11 TSO period is \$2,209,190.40 excluding GST.
33. Section 94K(1)(e) requires the Commission to calculate the TSO provider's loss of use of the specified amount, calculated at the 90-day bank bill rate⁷ for the period commencing from the end of the TSO period and ending with the date of the final TSO cost calculation determination. The amount payable for the loss of use of the Specified Amount is calculated by multiplying the days elapsed by the 90-day bank bill rate applicable as at the date of the final TRS cost calculation determination.
34. The 90-day bank bill rate for 8 December 2011 is 2.68% and the number of days elapsed is 161 so the amount payable in interest for the loss of use is \$26,115.66. Therefore the total amount payable by the Crown to the TSO provider is \$2,235,306.06.

⁶ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 9 July 2004, Schedule 2, Performance Rebate

⁷ The 90-day bank bill rate is calculated as at the date of the final determination.

Table 3: Specified Variable Amounts

Month	Call Volume (Minutes)	Traffic Charge Per Call Minute	Total Usage Charges
Jul 2010	36,580	\$5.18	\$189,484.40
Aug 2010	35,917	\$5.18	\$186,050.06
Sep 2010	37,098	\$5.18	\$192,167.64
Oct 2010	32,414	\$5.18	\$167,904.52
Nov 2010	33,427	\$5.18	\$173,151.86
Dec 2010	31,909	\$5.18	\$165,288.62
Jan 2011	30,542	\$5.18	\$158,207.56
Feb 2011	35,467	\$5.18	\$183,719.06
Mar 2011	35,480	\$5.18	\$183,786.40
Apr 2011	29,301	\$5.18	\$151,779.18
May 2011	31,801	\$5.18	\$164,729.18
Jun 2011	30,994	\$5.18	\$160,548.92
Total	400,930		\$2,076,817.40

Table 4: Specified Annual Fixed Charge

Period	Fixed Charge
Financial Year 7	\$132,373

Dated this 8 of December 2011



Dr Ross Patterson
Telecommunications Commissioner

APPENDIX 1 – LEGISLATIVE FRAMEWORK

The Framework for the Determination

35. Part 3 of the Act facilitates the supply of certain telecommunications services to groups of end-users within New Zealand to whom those telecommunications services may not otherwise be supplied on a commercial basis or at a price that is considered by the Minister to be affordable to those groups of end-users.
36. Subpart 2A of Part 3 prescribes the annual procedures for determining the amounts payable by the Crown to the TSO provider in respect of the TRS TSO instrument.
37. The Commission is required under section 93 to make an annual assessment of the TSO provider's compliance with the TSO Deed. Section 93 provides as follows:
- Not later than 60 working days after the end of each financial year, the Commission must—
- (a) assess a TSO provider's compliance with its TSO instrument during that financial year in accordance with any process set out in the TSO instrument; and
- (b) notify the TSO provider and the Minister, in writing, of any non-compliance by the TSO provider with the TSO instrument.]
38. The Commission was required to release a draft TSO cost calculation determination under section 94F of the Act and include in that determination the matters specified in section 94G. The Commission released a draft TSO cost calculation determination for the TSO Deed on 30 September 2011.
39. Section 94J(2) of the Act requires the Commission to make reasonable efforts to do the following things, as specified in section 94J(1), not later than 40 working days after the closing date for submissions specified in accordance with section 94F(1)(c):
- (a) prepare a final TSO cost calculation determination:
- (b) give public notice of that final determination:
- (c) give a copy of that final determination to the Minister, all liable persons, and the TSO provider in relation to the TSO instrument.
40. Section 94K sets out the matters that must be included in the Commission's final TSO cost calculation determination. As the TSO Deed includes a Specified Amount, the draft determination need only include the following matters set out under section 94K(1)(b) to (g):

Matters to be included in final TSO cost calculation determination

A final TSO cost calculation determination must include,—...

- (b) if the TSO instrument contains a specified amount, the dollar amount of the specified amount and all material information that—
- (i) relates to the calculation of that amount; and
- (ii) would not, in the opinion of the Commission, be likely to unreasonably prejudice the commercial position of the TSO provider; and
- (c) the amount (if any) by which the total amount that the TSO provider would receive from the Crown in relation to the TSO instrument must be reduced because the TSO provider has not complied with the TSO instrument; and
- (d) the amount payable by the Crown to the TSO provider in relation to the TSO instrument in respect of the financial year calculated—...

- (ii) in the case of a TSO instrument that contains a specified amount, by subtracting the amount of the reduction (if any) referred to in paragraph (c) from the specified amount referred to in paragraph (b) ; and
- (e) the amount payable by the Crown to the TSO provider in relation to the TSO instrument for the loss of use of the amount referred to in paragraph (d), calculated at the 90-day bank bill rate (as at the date of the final determination) for the period commencing for the end of the financial year and ending with the date of the final TSO cost calculation determination; and
- (f) the methodology used by the Commission in preparing the determination; and
- (g) the reasons for the determination.

41. Section 94L sets out the requirements for payment of the TSO provider by the Crown and provides as follows:

- (1) The Crown must pay to the TSO provider, not later than 30 working days after the date that the final TSO cost calculation determination is publicly notified,—
 - (a) the amount set out in the final TSO cost calculation determination in accordance with section 94K(1)(d); and
 - (b) the amount set out in the final TSO cost calculation determination in accordance with section 94K(1)(e).
- (2) If the Crown does not pay the total of the amounts referred to in subsection (1) on or before the due date, the Crown must pay the TSO provider interest on the unpaid amount at the 90-day bank bill rate (as at 31 working days after the date on which the final cost calculation determination is publicly notified) plus 5% for the period from the time the amount was due until the time at which it is paid.]]