

Information Disclosure Submission

23 March 2009

We have read the Submission made by Internet New Zealand to the Commerce Commission on the Draft Requirements for disclosure by Telecom and the associated Draft Companion Paper.

In our view, it would be consistent with the purpose of the Telecommunications Act for the disclosure requirements to include sufficient information to permit testing of the hypotheses that a bundled service offer constitutes a price squeeze. We have no particular view as to how best to give effect to this requirement, but the options outlined in the Internet New Zealand submission seem reasonable.

Whether one considers this issue from a regulatory or competition law perspective, the same information is required.

In our view, there are only two possible reasons to omit such a requirement from information disclosure rules. One is that it would be unduly costly; the other is that it would prejudice the legitimate commercial interests of the company bearing the obligation.

We consider that the cost argument is very weak, because the data and analysis will have already been compiled prior to the launch of any offer. This is simply prudent risk-management for a large telecommunications provider.

Similarly, while information disclosure requirements could in theory be commercially detrimental, we do not expect that such an argument could be supported in this particular case.

John Small
Aaron Schiff
Reuben Irvine