

17 August 2005

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Dear Kate

**Re: Review of Designated and Specified Services under the
Telecommunications Act 2001: Request for Comment on procedural matters**

1. I am please to submit the following submission from THL on behalf of its wholly owned subsidiary, Broadcast Communications Limited (BCL).

Issues for Consideration

Combination of Investigations

2. BCL does not support the grouping of services together, and instead favours a separate process for each of the services under investigation.
3. BCL notes the procedural efficiency points raised by the Commission, but is concerned that grouping services together will lead inevitably to the grouping of submissions and issues, which would be to the detriment of the individual consideration required for the investigation of each service.
4. In particular, BCL submits that it is inappropriate to group the specified service of 'co-location of equipment for fixed telecommunications services on sites used by BCL' (**BCL Co-location**) with the specified service of 'co-location on cellular mobile transmission sites' (**Cellular Co-location**). BCL reasoning includes:
 - a. The specified service for Cellular Co-location has reciprocal effect amongst cellular network operators, whereas the specified service for BCL Co-location does not have any element of reciprocity, hence different considerations apply to the two specified services.
 - b. BCL considers that a strong argument can be made that it is not necessary to extend the specified service for BCL Co-location, whereas different arguments apply to the decision to extend, or not extend, the specified service for Cellular Co-location, and the two sets of arguments should not be combined or confused.



5. BCL notes that there have been no formal applications under the Act for BCL Co-location. BCL considers that this fact is illustrative of the efficient operation of its commercial arrangements. BCL draws the Commission's attention to paragraph seven of TelstraClear's letter to the Commission of 12 November 2004 in which Telstra advised that it had no issue with BCL and its commercial arrangement for co-location. BCL accordingly submits that the grouping of BCL Co-location with other specified services, which have been contentious, may create a negative climate of investigation of the extension of the BCL service.

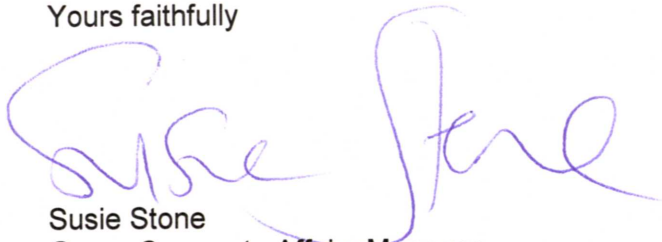
Amendments to Services

6. BCL considers that the industry is best served by certainty in the regulatory environment, especially where obligations are imposed. Accordingly, BCL submits that in investigating the extension of a service, the Commission should focus only on the extension of the service, unless it has previously advised parties that it will be investigating an amendment to the service, in which case the investigation should be first of the need to extend the period for a further two years and then separately consider the need to amend the specified service.
7. If this order is not followed, there is a risk that consideration of submissions about the need to amend the specified service will inadvertently lead the parties into a presumption or assumption that the service should be extended, when that matter should be the subject of separate, focussed consideration under section 65 of the Act. Only if and when the need to extend the service is established, should any consideration be given as to whether any amendment to its terms is required.
8. BCL agrees that nothing prevents the Commission from initiating an investigation into altering a service at the time it is considering the extension of the period, however BCL is concerned that this will not enable the parties to give due consideration to the investigation. BCL considers that to give due weight to a consideration for amendment, the process should be separate with appropriate time for relevant interested parties to respond.

Additional procedural Matters

9. BCL draws the Commission's attention to previous submission on points of procedure and submits that the Commission should be clear as to whether it is convening a conference or a public hearing and should prescribe the procedures to apply accordingly. Those procedures should prevent any "ambush" by the late submission of material.
10. BCL is happy to provide any further information the Commission requires and looks forward to making further submissions through the process.

Yours faithfully



Susie Stone
Group Corporate Affairs Manager
THL Group