



Commerce Commission

Review of Designated and Specified Services under the Telecommunications Act 2001

19th August 2005

Comment from CallPlus





Comments on Procedural matters with respect to the review of Designated and Specified services

CallPlus welcomes the opportunity to comment on the upcoming review of the designated services. The following summarises our position on the key issues.

1. Designated Services

We see little or no improvement in the competitive landscape since 2001 with none of the resellers or new entrants having made any significant gains in market share or established any new “alternative” competitive services that would lead the Commission to review the designation of the services.

In fact the reverse is true – new entrants have underperformed against expectations and it would be no surprise to see a changes to ownership or an exit from the market. TelstraClear have made little or no inroads and, in our opinion, appear to be retrenching on the business and regulatory front.

2. Procedural Matters

CallPlus is supportive of the recent proposed changes to the act with respect to extending the period of an existing regulated service.

We are concerned that the Commerce Commissions resource will be tied up by the access providers on reviewing the thirteen services rather than progressing critical regulatory developments. We therefore support the suggestion of a simpler test with an extension for a further three years.

Additionally we are concerned that having introduced new services to our customers, such as wholesale access, it would seriously damage our business should we be faced with an unsustainable voluntary wholesale arrangement for the currently determined services as a result of the service no longer being regulated. In fact we doubt that we could realistically withdraw one service without facing loss of the entire customer relationship including our core calling services.

3. Amendments to services

In the event that the commission need to review a service then it is important that they investigate the many different mechanisms whereby a vertically integrated incumbent can gain unfair advantage, delaying or preventing the benefits of true competition passing to the consumer.



By way of example these are some of the specific issues which we have encountered and we have had to accept to date.

1. Pricing retail below wholesale - Telecom continue to be able to consistently price retail below wholesale prices and manipulate wholesale prices through a number of mechanisms. These are tactics are often used in tandem and include:-

- “Grandfathering” – Telecom successfully argued that lines on term contracts were separate services. Their retail strategy for a number of years prior to regulation was to sign customers on to lower prices (typically \$48 or \$42) in return for terms.

Once the regulation came into affect Telecom immediately grandfathered these services thereby retaining the price point with the customer, whilst still having early termination penalties to prevent customers switching. However this achieved the objective of removing these price points from the DOSPL calculation for access lines thereby maintaining an artificially high wholesale price. We continue to see no movement of Zone 2 wholesale prices of \$49.07 despite encountering retail access prices and prices to dealers in the \$39.95 - \$42 per line per month (including zone 2).

- Bundles – These are being used by Telecom to “safe harbour” low prices from flowing through to wholesale. We encounter many cases of access & calling bundles, or bundles of lines with smartphone services, where the “effective” retail price for a line is below the wholesale price for lines.

We also encounter term contracts which are applied to bundles – thereby retaining “terms” as part of Telecoms weaponry despite the grandfathering mentioned earlier.

It is nonsense for Bundles to remain outside of the act and the issue needs to be looked at with some urgency.

- Special promotions – We share TelstraClear’s concerns as outlined in their application for reconsideration 2003 - issue #4 and agree with the suggestions made.
- Zones – The introduction of zones ignores the practical application of services. In reality there are no real alternative services that can be substituted in Zone 1 due to the differences in products, provisioning processes and the practicalities of market to consumers without creating confusion and poor customer experiences. For this reasons standard access lines and broadband tend to be offered (if available) nationwide with no price differentiation by zones.



We believe that the market should be viewed as a national market.

Additionally there are many other means for Telecom to erode margins and create barriers to competition.

- “Double billing” for the same service, as occurs currently with Jetstream & other services, where Telecom charges full months and no credits are issued by TCNZ for partial month service on cancellation. In this instance the customer is charged by Telecom for a full month but the wholesale billing commences on the date of reassignment thereby creating a double billing for the same service for up to one month’s full retail charge.
- Unreasonable provisioning processes either delaying or frustrating service or forcing customers to contact Telecom retail channels to cancel services.

For example: Where a designated service is part of a bundle (which is often a loose coupling of determined and possibly non-determined services) there are instances where we have been advised that a customer consent as per Telecoms wholesale agreement will not be accepted. Telecom are insisting that the customer themselves must contact Telecoms retail channel to request cancellation of the bundle prior to accepting a reassignment request from ourselves.

This creates a barrier to switching, an opportunity for Telecom to win back the customer and drives complexity which can lead to a discontinuation of services being experienced by customers.

2. TSO Obligations - CallPlus remains of the view that the TSO regime is inconsistent with the purpose of the act as it provides a deterrent for competitors to offer services to this part of the market. Additionally as we continue to operate predominantly in the Auckland market the effect of the TSO would be to drive up the cost of calls or inhibit the ability to reduce costs for the majority of customers who are likely to have no benefit from the TSO.

Furthermore the final regime was substantially different from our original understanding at the time of introduction. We had understood that the Act was to deal with the very small number of instances in which Telecom bear an unfair burden of cost such as emergency call, services to the deaf etc. The TSO has escalated into a very substantial cost burden to be shared across all end users.

We also believe that there is a need to look at the wider revenues that Telecom, or other providers, receive from households in this sector including internet, broadband, mobile, data and other services such as directories. If after considering



the total communications spend (regardless of who supplies the service) there are a few households that are costing several thousands of dollars then if these customers were identified we have no doubt that an alternative viable solution using alternative technologies could be provided. In line with this we believe that it is critical that calculations are based on costs of providing service using technologies currently available and not legacy solutions.

In summary we believe that, should there be a review of a service, the Commission considers these types of issues. Currently there is no pressure on the incumbent to modify its behaviour as there are no competitive alternatives.