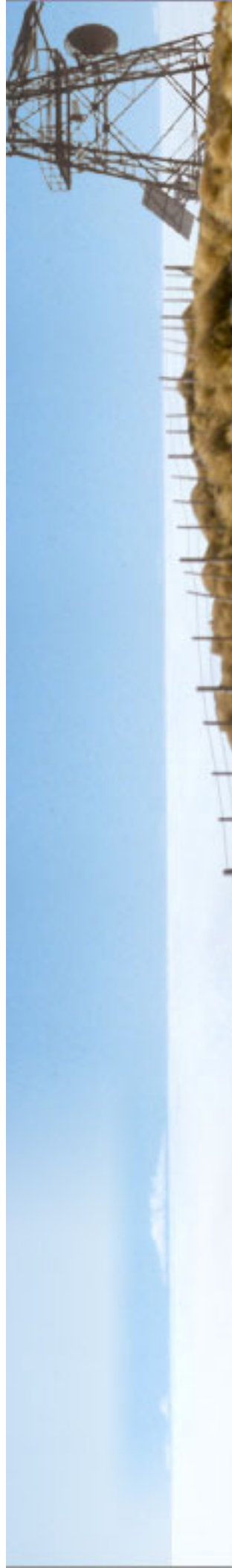




Key Points of BCL's Submission

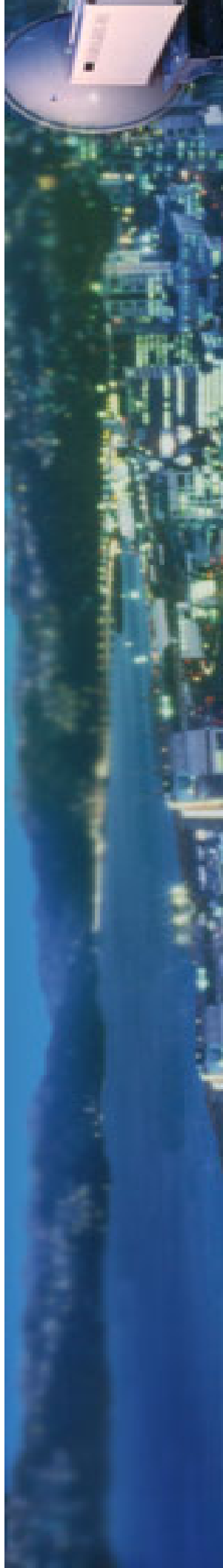
To the Commerce Commission's Draft Report
on unbundling the local loop
and the fixed public data network



Workable and effective competition



- BCL submits that the operation of its network as a wholesale open access platform will provide workable and effective competition to Telecom and that it will act as a constraint on Telecom's behaviour
- BCL offers voice (circuit switched and VoIP) and data services as a wholesale only open access provider that does not compete with its retail service provider customers in the retail space
- BCL also wishes to note that the sale of services to an RSP does not make BCL's network under the control of that RSP



Workable and effective competition



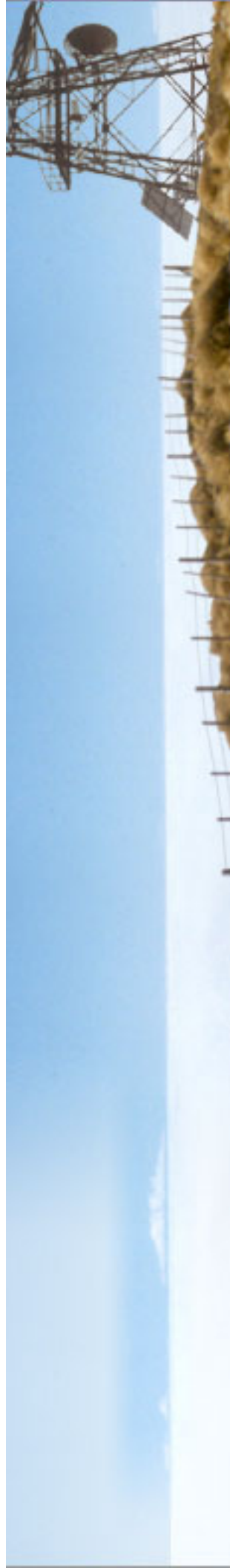
- BCL notes that in the past Telecom has responded to new entrants through price reductions
- BCL expects that Telecom will respond with price falls where retail service providers use BCL's network to compete with DSL
- BCL recognises that BCL will face pressure from its RSPs to lower prices to the RSPs - this is the effect of competition which is expected in a wholesale environment. BCL has modelled this in its 10 year business plan
- BCL can enable its RSPs to compete with DSL through service innovations eg SLA based services as opposed to best endeavours of DSL, nomadic services
- BCL notes that the PROBE tender has resulted in competing infrastructure providers being selected across New Zealand – BCL, Woosh, PacificNet.com



Investment and Innovation



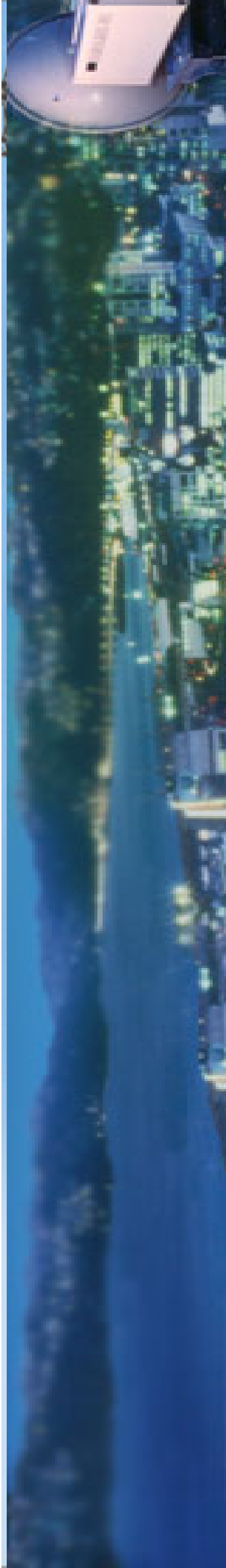
- BCL considers that competition concerns should be around the conduct of vertically integrated companies, not regarding the conduct of wholesale only operators, such as BCL, that do not compete with retail service providers
- BCL believes that it has a pricing structure that will enable effective competition to Telecom from BCL's RSPs customers and that new RSP entry on competing infrastructure will bring innovation benefits.
- BCL submits that the proposed regulatory environment could act as a constraint on new entrant activity or investment in new technologies that bring benefits beyond those capable of being delivered over copper, if there is not sufficient producer surplus to stimulate investment in technologies other than copper
- An environment that promotes investment in the copper loops over new technologies cannot be in the long term interests of consumers if the consumers are denied benefits such as portability, mobility, higher data transfer speeds etc.



Investment and Innovation



- BCL notes that Bitstream will not increase the reach of broadband services – if you do not have access to DSL today, then unless Telecom invests in DSLAMS in new areas, consumers without broadband will not get access to broadband
 - need to ensure we are clear about the objectives of improving access to broadband versus improving takeup.
- New technologies come with a cost wave which dissipates over time - mobile example.
- Consumers will face limited choices if alternate technologies are not sustainable - a situation which could arise if the price to the access seeker is set too low.
- Consumer benefits are about more than price.



Investment Decisions



- BCL's business case does not require the long term continued existence of the current DSL prices to support its business case. BCL has modelled price falls over time.
- BCL considers that if the Commission interferes in the operation of the wholesale market by providing for LLU eg bitstream on a cost plus basis then RSPs will choose to purchase the bitstream service as opposed to services from new network entrants
- Under unbundling, BCL will be facing competition to gain RSPs onto its network from the unbundled Telecom network – in effect the market that BCL is competing in has to be shared amongst more companies, threatening the scale economies for the new entrants that are expected to drive prices down
- BCL considers that unbundling Telecom's network where there is competing network infrastructure, and in particular where BCL is operating with its open access model, is sending the wrong signal re incentives to invest.



Conclusion



- The existence of BCL's wholesale only network with a coverage of 600k households changes the competitive landscape in New Zealand.
- To interfere in the operation of the wholesale market at this stage would be premature.
- BCL considers that the Commission should recommend that there be no unbundling at this stage and continue to monitor the competitive environment and the delivery of long term benefits to consumers.

