



Submission

Chime Communications Pty Ltd (“Chime ”)

To the

**New Zealand Commerce Commission’s
September 2003 Draft Report**

on

**Investigation Into Unbundling The Local Loop Network
And The Fixed Public Data Network**

1 Background

- 1.1 Chime is a wholly owned subsidiary of iiNet Ltd, a publicly listed Australian company. Chime holds the Australian carrier licence for the iiNet group and is responding on behalf of the group generally. We have operated in the Australian market for ten years and have experience with similar issues in this market.
- 1.2 Our experience in the Australian market has been that incumbent carriers are generally extremely protective of their markets and will not readily engage in commercial negotiations to increase competition. In Australia, Chime has found it necessary and effective to request intervention by the regulatory authorities as a result of the incumbent's (Telstra Corp) unwillingness to reach commercial settlement.
- 1.3 Without the intervention of a regulator Chime believes that increased competitiveness at both the price level and the service delivery level will be minimal and slow.

2 Increased competition

- 2.1 We believe that increased competition delivers -
 - Reduced prices to consumers (the obvious result)
 - Increased product innovation (as providers look to differentiate their products)
 - Industry development (as suppliers develop product and service offerings)
 - Economic development (as the industry investment increases and creates employment opportunities)
- 2.2 We believe that benefits to the consumer and the economy flow from an environment in which interested participants are able to develop a broad range of offerings. Increased competition provides greater choice for consumers and, as suppliers strive to differentiate their products to attract business growth, innovation and product development fuels greater competition and delivers increased competitiveness for the users of the services in their downstream markets as well.
- 2.3 This multiplier effect is very evident in Australia with numerous services being offered to consumers on broadband services that were unworkable on dial-up services or in a single supplier environment.
- 2.4 In our own experience with broadband services, (we have in excess of 30,000 DSL services in operation across Australia) we have noticed that an innovative offering introduced by ourselves has become a much copied service that it is now on the way to becoming an industry standard. This innovation is an example of new service creation that was not evident with the incumbent.

3 Wholesale offerings

- 3.1 Chime's view is that a range of important elements will require attention as part of any continuation of de-regulation - many of those are addressed in the draft report. We also believe that the absence of a suite of wholesale products from the incumbent provides no incentive to service providers who might otherwise enter the market and use the infrastructure of the incumbent to offer differentiated products and services.
- 3.2 In the Australian environment, wholesale products from Telstra, Optus, AAPT, Vodaphone, Powertel and others are providing significant opportunities for many other businesses to develop and market offerings that would otherwise not be available.
- 3.3 We suggest that TCNZ should be encouraged to provide a purpose designed wholesale product set delivered by a structurally separated arm of the TCNZ business who are charged with developing the Wholesale business as a profit centre. From TCNZ's perspective this allows a middle road of "buy don't build" which leverages off their infrastructure and also encourages competition.
- 3.4 We believe this wholesale access to TCNZ infrastructure fits well with the unbundling model. It allows components to be acquired "wholesale" where appropriate, allowing the development of a hybrid network comprising of both "bought" and "built" elements.
- 3.5 Essential in this hybrid model is access to TCNZ's exchange buildings. This would entail dedicated space being made available within the exchange building on commercial terms. Clearly, this space could be made available for compatible use and issues of security and access need to be addressed. In Australia, this telecommunications equipment building access (TEBA) has become an indispensable component of our network expansion. It reduces costs, simplifies network development and speeds the rollout of services.
- 3.6 Access to unbundled services will be greatly simplified if the acquirer is able house equipment within the exchange premises where the unbundled services terminate.

4 Economic Issues

- 4.1 Given the right conditions, Chime is very likely to invest in network development in New Zealand. We have extensive experience in Australia and see similar opportunities in NZ. The likelihood of our investment will be greatly influenced by a number of issues, not the least of which is the outcome of this inquiry and determination.
- 4.2 In the event that New Zealand proceeds with unbundling and a commercially viable regime for acquiring unbundled services exists, Chime would develop its business plan for network development very rapidly.

- 4.3 It is worth noting that, from our perspective, the nature of the unbundling and scale will contribute to the viability of our plans. Access to unbundled services will need to be at the exchange level to allow the broadest reach within a given area. Generally, we do not believe that access to unbundled services at a street pillar or cabinet will deliver the appropriate level of scale to justify investments.

5 Comments on the Draft Report

- 5.1 Chime is generally very supportive of the conclusions reached by the Commission as set out in the draft report. Chime is strongly of the view that the unbundling of TCNZ's local loop is fundamental to the development of a fully competitive telecommunications market-place in New Zealand. Unbundling of TCNZ's fixed PDN and acquiring access to TEBA/co-location and backhaul services would be logical complements to local loop unbundling.
- 5.2 In Chime's view, it is almost impossible to underestimate the extent to which ownership of virtually the entire local loop gives TCNZ an advantage over its competitors (in terms of its ability to bundle services for which competition exists) with those in which there is either no competition, or very limited competition. TCNZ has for many years offered customers discounts on line rentals as a means of winning competitive tenders for toll and other services.
- 5.3 Chime also supports the Commission's view that the local loop must be made available at a rate which is cost based, otherwise it is unlikely that competitors will have a realistic margin within which to compete and are therefore, unlikely to invest.
- 5.4 For unbundling to produce the benefits which are contemplated in the report, it will be essential to ensure that competitors are not obliged to lease from TCNZ more network elements than they require. In other words, the unbundling must be to such a level that TCNZ cannot pass on to its competitors costs for network elements that they do not need. For example, presently TCNZ will resell Jetstream only when bundled with national and international bandwidth and with data caps and excess bandwidth charges being determined solely by TCNZ. Experience indicates that TCNZ will try to minimise the benefits to its competitors (and therefore to the public) of any regulatory change.
- 5.5 Real savings for customers have been delivered in the areas of toll bypass and other areas where there is competition. Customers could reasonable expect a similar result in other markets if competitors are given reasonable access. Looking at the Australian market, it is easy to see the increase in competition that unbundling has enabled. In this market, a raft of new participants have entered, costs have fallen significantly, with a rapid uptake in broadband, generating wide benefits for customers, communities and the broader economy.

- 5.6 Because Chime is very supportive of the views expressed by the Commission in the draft report, we consider it unnecessary to respond to each of the specific questions asked by the Commission. However Chime does have comments on a number of the questions. These are set out below.

6 Responses to questions

- 6.1 Question 3.2. Hybrid loops should be covered by the unbundling of the local loop network.
- 6.2 Question 3.3. Where TCNZ adds a fibre overlay it should be required to retain copper and provide access to it if any other operator is using the copper.
- 6.3 Question 3.7. It would be extremely useful for OSS to be provided as part of LLU. However the provision of OSS should not have any significant impact on cost.
- 6.4 Question 3.9. It is appropriate to include fixed wireless technologies within the definition of the fixed PDN.
- 6.5 Question 3.10. It is appropriate to include third party network elements to the extent that they form a part of a PDN.
- 6.6 Question 3.11. Chime agrees with the views set out in paragraphs 291 to 293 of the report regarding end-user access and control of a network.
- 6.7 Question 3.13. Chime agrees with the views set out in paragraph 299 of the report.
- 6.8 Question 5.3. Chime generally supports the Commission's views regarding the proposed initial and final pricing principles. However Chime considers that all prices (including bitstream access) should be cost based.
- 6.9 Question 5.7. TCNZ should be obliged to remove loading coils and other similar technology.
- 6.10 Question 6.2. Chime is seriously considering the installation of DSLAMs and presently considers it is likely it would do so in selected locations where scale and access allow.

- 6.11 Question 6.4. Unbundling would be highly likely to increase Chime 's investment in infrastructure to meet customer requirements. We are commencing further "proof of concept" testing in the Australian environment, using unbundled access for the Local Loop. This will lever off and complement the large installed base of customers using wholesale ADSL services provided by Telstra.
- We have now completed a merger with NZ company *ihug*, and would expect our network investment in New Zealand to complement the Australian network development.

7 Summary

- 7.1 Chime reiterates its strong support for unbundling of the local loop and PDN with cost based pricing. Chime is happy to clarify any aspects of this submission to the Commission should you require it.