

**COMMERCE COMMISSION SUBMISSION**  
NZX Submission on Local Loop Unbundling

29 October 2003



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# **I. CONTEXT AND REASON FOR THE SUBMISSION**

## **A. NZX'S ROLE IN DEVELOPMENT OF CAPITAL MARKETS**

NZX is the sole operator of a registered securities exchange in New Zealand. NZX's constitution recognises explicitly that NZX has a role and responsibility to maintain the integrity and international competitiveness of New Zealand's capital markets (including the New Zealand listed debt and equity markets) and to attract public issuers to, and retain them on, the public security markets operated by NZX.

## **B. PURPOSE OF SUBMISSION**

NZX has provided this brief submission on the Commerce Commission's draft decision on unbundling the local loop. This submission is made in relation to a point that NZX sees as a public policy concern: the potential effect flow on effects this decision may have on investments in New Zealand infrastructure companies. NZX wishes to use this opportunity to bring to the Commission's attention the concerns NZX has on this point.

In providing this submission, NZX has not suggested a solution as we are well aware that the particular aspects that NZX is interested in cannot be viewed in isolation. We ask that the Commission consider the points in this submission when making its determination.

## **II. NZX SUBMISSION**

### **Incentive for Investment**

There are currently 16 domestic infrastructure companies listed on NZX. Of these companies, 13 are in the NZSX 50, which comprises of 45% of the market. NZX is concerned with the deterrent effect of interventions such as those the Commission has recommended on incumbents and competitors to invest in new infrastructure. We have concern with the methodology the Commission has used to assess the net benefits, which, if applied broadly, may create significant disincentive over time for companies to invest in New Zealand based infrastructure. This can lead to detrimental effects for investment and growth in New Zealand. In particular, there may be insufficient incentive for infrastructure companies to invest in long term assets. Moreover, without constant capital investment in long term assets (such as infrastructure), New Zealand infrastructure companies run the risk of falling behind technologically and lowering the attractiveness for overseas investment in New Zealand's capital markets.

### **Dynamic Efficiency**

On behalf of the companies referred to above, NZX's main concern is the low weighting given to dynamic efficiencies and the level of analytical rigor in that area. NZX is concerned that the Draft Report has given insufficient weight to the importance of dynamic efficiency, has too narrowly defined dynamic efficiency, and has not assessed all impacts, including beyond the telecommunications industry.

Competition is stated as inexorably increasing dynamic efficiencies, but dynamic efficiency actually results from investment, which can occur under a multitude of market and competitive structures. For example, unregulated duopolistic competition can result in stagnant markets where sunk costs are utilised for high near term margins, but little long term investment. In NZX's opinion there are a variety of investments that could accrue or be foreclosed as a result of the Commission's decision. It is NZX's view that this will be the prime legacy of this decision, and accordingly, NZX would urge that greater emphasis be placed on assessing dynamic efficiencies and the longer run implications on investment.

While the uptake of broadband services is clearly important, as a metric disengaged from larger economic indicators, it is not sufficient on its own to conclude that dynamic efficiency has increased, unless that uptake is driven by, or creates, increased investment in the economy as a whole.