

15 September 2003

Mr Osmond Borthwick
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Commerce Commission
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Dear Mr Borthwick

Review of Telecommunications Network Unbundling

I recognise that the Institute is coming to the issue of telecommunications network unbundling at a late stage in your enquiry.

However, given the representations that have been made to us by those with commercial interests in the issue, we feel it appropriate to place on record, the Institute's preliminary views on behalf of the domestic consumer.

Obviously, we do not have the technical or economic insight into the telecommunications industry of the participants. Nevertheless, we have identified a number of what we consider to be key issues. The list is by no means exhaustive and our commentary is based on an assessment of recent statements from those favouring and those opposing local loop access.

1. Rapid development of wireless and satellite technology

True competition in the broadband market is about to emerge. This is Telecom's principal argument against opening the local loop to competitors. There is some truth in the assertion. Contracts for the government sponsored Project PROBE have been awarded in a number of regions, at least two electricity line companies appear to be serious participants in the broadband market, Walker Wireless last week announced its new broadband service in Auckland, and BCL is working quietly behind the scenes developing wholesale wireless services.

However, we ask the Commission to take a cautious approach. At present, there are differences in the quality of services provided by fixed wire and wireless, the current price of wireless is higher than copper, and satellite provision of broadband to domestic consumers is only worth considering if fixed wire and wireless are unavailable – in other words, interactive satellite is not a viable competitor at present.

Another argument advanced for the retention of Telecom's exclusive rights to the local fixed wire infrastructure it owns is that, by allowing other companies to use Telecom's network, innovation will be stifled. We are not convinced by the theory. At present Telecom offers its service to those willing to pay. This offer excludes all innovation except that initiated by Telecom. If the wires in the local loop were made available at a realistic commercial rental, at least there would be the potential for more than one party to develop new services. Broadband innovation will come from technical developments, quality services wanted by consumers and competitive prices. The delivery mechanism will be an important but secondary consideration.

2. Convergence of wireless and fixed line

We applaud the convergence developing between wireless and fixed line for the provision of broadband services to New Zealand consumers. These moves will provide a seamless delivery of data-services to virtually any place in New Zealand. However, from a competition point of view we note with concern, the increasing number of partnerships that are being formed between Telecom and wireless providers.

On one-hand we are told that there is little to be gained by unbundling Telecom's dominance over the local loop because the company will be confronted with competition from wireless operators, while on the other, we see commercial alliances developing between Telecom and companies such as Walker Wireless and BCL.

There would be a certain logic in saying that, if Telecom is allowed to participate in partnerships with wireless companies, then copper lines in the local loop should be opened up to permit competing operators to make use of this established infra-structure for the provision broadband services.

Telecom responds to such proposals with the claim that they are prepared to sell their Jet-Stream service to all comers at the discount price agreed with the Commission. In our view, this will not provide incentives for innovation and development. Jetstream, by world standards is slow and expensive. There needs to be room for innovation if genuine competition in the broadband market is to develop and this will not come about through the retailing of an existing service by one, or more, competing companies.

In summary, we see Telecom's dominance in the broadband market being retained, and indeed strengthened, if it continues to have exclusive control over the local loop and pursues commercial alliances, with providers of wireless services.

3. Opposition to opening of the local loop by other commercial enterprises

We note, that Walker Wireless and BCL both object to the opening of the local loop to all comers. We see this simply as a protection of their own commercial interests and a lessening of potential competition.

Both companies have invested considerable sums in the development of their wireless networks. Should other companies be allowed to provide broadband services over the local loop then this would have the potential to lessen the customer-base on which the wireless companies could draw.

Walker Wireless' and BCL's objections are quite understandable from a commercial point of view, but don't take into account the interests of a emerging competitive market.

Indeed, we would go further and suggest that the alliances that are developing between wireless and Telecom have the potential to restrict the options open to consumers.

4. Quality of service

Proponents of both wireless and fixed wire broadband services are very quick to sing the praises of the quality of their delivery mechanism. Setting aside the promotional hype, it has to be acknowledged that there is greater fragility with wireless compared to a fixed line connection. There is also the question of suitability for some applications such as internet gaming. As noted in the introduction to this letter, we don't have the technical expertise to make definitive judgements on these questions, but recognise there is considerable debate over whether there is a direct comparability in the quality of the service offered by wireless and fixed line.

5. Relative costs

Already the promotional sophistry has begun between the opposing factions. Walker Wireless are claiming an entry level package that is twice the speed of Telecom's starter for the same monthly charge. Our investigations show that the claim is slightly exaggerated, but it really begs the question of what the charge for a truly comparable fixed line service would be if the local loop was unbundled. An inkling of what might be is provided by the competitive suburban telecommunications services offered by TelstraClear and Telecom in Wellington and Christchurch. TelstraClear is offering a monthly line rental of \$29.95. Telecom's price for the same service in the same areas is \$32.40. However, where Telecom doesn't face competition residential consumers pay \$39.30. It is reasonable to assume, given the pricing behaviour of telecommunications companies in New Zealand, that should the local loop be opened to competition, domestic consumers would benefit from lower prices.

6. Contribution of broadband to New Zealand society

Much play has been made of the economic benefits of broadband to the New Zealand economy. In our view, many of these predictions are self-serving and highly speculative. From a domestic consumer point of view the advantages of broadband will fall into two categories, neither of which will be of great national economic advantage to individuals. The first is access to educational information. The government has recognized the importance of this with the promotion of Project Probe and, of course increasingly, residents will be accessing information through the internet through their personal computers. The second advantage to citizens from high-speed reliable services, will be the provision of entertainment. The downloading of videos, the playing of internet games and the increasing use that's being made of the internet for the exchange of music, will all require capacity and speed from broadband. Given this assumption the major economic consideration will be not the national economy, but the price consumers pay for the service. The stronger the competition between suppliers of broadband the lower this price will be.

Conclusion

Until recently, Consumers' Institute would have been an unequivocal advocate for the unbundling of the local loop.

We acknowledge the very rapid technical developments of wireless and the offerings that are now being made to the public of this alternative service.

We believe that there needs to be a period of trial to establish whether or not wireless is going to provide a genuine, competitive alternative to fixed wire broadband services.

No matter what the future of competitive services, we are concerned at the current moves being made by Telecom to gain substantial foot-holds with wireless companies.

We don't believe it would be in the interests of New Zealand consumers to attempt to constrain such alliances, but given their development, we believe an unbundling of the local loop would provide a constraint on the ubiquitous presence of Telecom in the provision of broadband services.

We look forward to the Commission's report on this important issue.

Yours sincerely
David Russell
Chief Executive