

15th May 2009

Commerce Commission
44-52, the Terrace
WELLINGTON

By email: sham.panchacharan@comcom.govt.nz

Review of Resale Services under schedule 3 of the Telecommunications Act 2001

Public Version

Introduction

CallPlus thanks the Commerce Commission for the opportunity to comment on the Review of Designated Access services.

CallPlus' understanding is that Telecoms intent in requesting this review can be summarized as follows: -

1. Telecom wish to retire resale WBS on the basis that a more 'generic' or intermediary product is available in the form of UBA.
2. Telecom wish to remove the designation of all legacy data products.
3. Telecom wish to remove the designation of Homeline & Business line services

As a general comment we are concerned when Telecom attempt to 'rollback' regulation given the improvements that have been made as a result of the regulatory initiatives since 2004. Our industry continues to be dominated by the large incumbents and the majority of competitors are have very low market shares and are still at various stages of development on the 'ladder of investment'.

We have focused our response to those three issues however we are happy to provide further information if required.

1. Resale WBS

The regulated Basic UBA has largely superseded the WBS. CallPlus has migrated its customer from the Resale service to UBA and does not believe there is a need to continue to regulate WBS.

2. Legacy data Products

A small quantity of these data products are still used in the market. CallPlus would suggest that it may be appropriate to remove the designation of the service where a clear migration path (which does not disadvantage end customers or service providers) to a new product is available

3. Homelines and Business Lines

CallPlus' is strongly opposed to any removal of regulation for these services. Access to these services will continue to be critical to competition until the migration off the PSTN in 2020.

There is an increasing trend to bundle services with access therefore the availability of a regulated service is a critical component in enabling competition across a number of services.

CallPlus continues to consume these services and experience growth in the number of services as the following graph indicates [

]COI

The availability of LLU in certain areas provides an alternative however at this stage this is very limited & in the foreseeable future we don't envisage that it will significantly impact on the usage of Telecom resold lines.

- Deployment is only in certain areas
- Recent uptake of LLU services whilst still minimal in terms of the overall market has been abnormally high as a result of migration of existing customers by competitors. However moving forward uptake of LLU services will slow significantly as the migration of the 'lines / broadband / calling' customers within existing customer bases concludes.
- The announcement of the extensive cabinetisation plan has severely impacted on the viability of exchange based LLU in affected areas []COI

CallPlus does not believe that the availability of a commercial service as a replacement would be advisable given the criticality of the resold lines service.

- The market is dynamic and we continue to see instances of Telecom choosing to interpret the service definition or terms on which they offer the service to their best advantage. A recent example is Telecoms proposed commercial VDSL2 service at a \$20 premium to UBA when the service is clearly already encapsulated in the STD service description for UBA. Without a regulatory back stop there is no referee.
- We are concerned that the removal of services as designated services may have unforeseen implications for Telecoms obligations under operational separation whereby Telecom is not required to provide equivalence of input for non-regulated services.

For further information from CallPlus please contact:

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Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Walmsley'.

Graham Walmsley
General Manager – Wholesale & Regulatory