

Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
PO Box 2351
WELLINGTON 6140

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By email: ross.patterson@comcom.govt.nz

RE: Telecom Broadband Promotions and Separation

Dear Ross,

I am writing to inform you of recent market activity by Telecom. On the 6th of April 2008 Telecom introduced its *Broadband from Dial-up Prices* promotion where Telecom offers the customer a \$13.01 discount. This gives a retail price that is significantly below the cost for Access Seekers to purchase the same wholesale product.

On the 16th of April 2008, Telecom Wholesale released a UBS promotion to its wholesale customers beginning on the 1st of May where the end-user could get three months free for a new connection or three months at the old plan price if the customer upgrades to a higher speed plan. This promotion effectively reduces the cost of Telecom Retail's promotion.

The coincidence of these two promotions shows there are potentially information flows between Telecom Retail and Telecom Wholesale that are not occurring with Telecom Wholesale's other customers. Either the Retail promotion is a flow through of the Wholesale promotion available to all wholesale customers or the Wholesale promotion was launched to prevent the Retail promotion from being below cost. Telecom Retail appears to have known about the Wholesale promotion in advance, and launched its below cost offer before Access Seekers had any knowledge of a promotion. I am concerned that Telecom is taking advantage of its market power in both the provision of retail and wholesale services and further that Telecom is not meeting the requirements of separation or equivalence required by the Telecommunications Act.

There is significant potential benefit for end-users and competition from the Telecommunications Act with the new separated environment, Local Loop Unbundling and Unbundled Bitstream Access Services. The Commission must ensure the effective implementation of this separated environment and prevent Telecom from offering anti-competitive promotions.

I look forward to hearing what the Commission's view is of this situation.

Regards,



Scott Bartlett
Orcon Chief Executive