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30 October 2009

Dr Ross Patterson,  
Telecommunications Commissioner,  
44-52 The Terrace,  
Wellington

By email : [telco@comcom.govt.nz](mailto:telco@comcom.govt.nz)

Dear Dr Patterson,

**RE: Telecom UBA Loyalty Discounts and Potential HSNS Pricing Investigation**

It was with great disappointment that we received the news that the UBA Loyalty offers were determined to be discriminatory, but even more disappointed to learn that there may also be an implication for HSNS Volume Discounts. Unfortunately, in the timeframe available we have been unable to give a full and detailed submission sufficient attention – but this is not indicative of the importance with which we view this issue. We do, however, wish to note our support of the Telecom UBA Loyalty Discounts and HSNS pricing.

A huge focus has been placed upon unbundling at various levels, in an attempt to introduce and encourage competing networks. We are now in a situation where we have competition (albeit in isolated areas) and the first thing that has happened is the Commerce Commission is used as a vehicle for price-fixing UBA and ensuring that Telecom is prevented from rewarding wholesale customers for using and promoting their network. Let us not also forget that for users located outside Auckland and Wellington there sometimes is no choice of network for copper broadband tail circuits. When there is no intention shown by other network operators to build competing networks, how can the loyalty offers possibly be considered discriminatory? And for that matter, how can offering discounts based upon total volume of subscription to the HSNS service be discriminatory?

For a start, the word “discriminatory” should be replaced with the word “competitive”. Competition has been created, and Telecom must themselves be more competitive. That was what all of this was about in the first place. Competition. In a competitive market, successful suppliers establish relationships with and reward their largest and most loyal customers. In the creation of a competitive market, prices generally fall.

The Undertakings, under clause 56, state that “Telecom wholesale will not discriminate between Service Providers”. Snap is a Service Provider and has been offered exactly the same loyalty offer as other Service Providers. With a large number of our customers in the South Island (outside the realm of the most financially appealing Loyalty Offers), it should be noted that Snap was also “discriminated” against. Ultimately, and as correctly stated by Telecom, it is impractical to assume that they can construct an offer that will suit all providers. In the case of HSNS volume discounts, again, all Service Providers have the same rate card – this time, based upon volume. How this could be considered discriminatory? And after all, this same discount strategy is common amongst other Network Operators.

In effect, we now presumably have a Commerce Commission endorsed UBA price-fix, and the possibility for a similar situation with HSNS – that is, the precedent has been set for future price reductions by Telecom being classed as “discriminatory” because they will not suit UCLL parties who are also Service Providers.

There is no question that the motives for support of the UBA Loyalty Discount are financial, but there should also be no confusion that the offer would have created more competition and probable price reductions across providers. Snap uses the services of a multitude of Network Providers and we choose to use Telecom over others in various situations, including UBA/copper broadband. Regardless of the existence of other providers, our choice is to continue to do so, and this is based upon a number of factors all directly relating to end-user experience. While acknowledging the part of the Regulator in this circumstance, under any normal partnership it would be expected that this type of loyalty is recognised and encouraged.

**Sincerely,**

**Jamie Cairns,  
CEO,  
Snap Internet**