



**TelstraClear Limited**

**Opening presentation**

**Wholesale Bitstream Access  
Application for Determination**

**4 –5 July 2005 Commerce Commission Conference**

**4 July 2005**

## Introduction

1. TelstraClear welcomes the opportunity to participate in the Commission's conference on wholesale bitstream access.
2. In addition to myself, participating in the Conference for TelstraClear at various stages will be:
  - a. Wendy Dodd, Malcolm Starr and Michael Newbery (TelstraClear).
  - b. Professor Janusz Ordover (New York University)
  - c. Dr Suella Hansen (Network Strategies)
  - d. John Gandy (AAS)
  - e. Thorsten Engel (Deloitte)
  - f. Jamie Atkinson and Trevor Hillier (Telstra)
  - g. Peter Waters (Arculli & Associates); and
  - h. Jonathan Clarke (Bell Gully) who will be managing confidentiality matters at the conference.

## Why are we here?

3. The outcome of these proceedings should be cheaper, better and more innovative broadband services for consumers.
4. As such, the price and non-price terms of the bitstream service should be driven by the requirements for, and as importantly the promise of, broadband in downstream markets. We see the goals in the downstream market as:
  - a. **Innovation:** this was the primary basis of the Commission's decision to recommend unbundling of Telecom's retail Jetstream service. The resale Jetstream service confines access seekers to Telecom's vision of the retail market in terms of speeds, data caps, service levels and price. If access seekers do not get much more than is delivered by the resale Jetstream service, the candle isn't worth the game, either for access seekers or the Commission;
  - b. **Higher speed:** new applications coming onto the market will continue to demand ever higher speeds from the underlying broadband service. The Government's digital strategy sets a benchmark of 5 Mbits. Overseas, services that were regarded 12 to 18 months ago as high speed, such as 1 and 2Mbits, are now considered entry level, even for residential customers. There is not likely to be any let up in the speed race;
  - c. **High Take-up:** broadband growth has accelerated in New Zealand over the last year, but we are not even standing still. Countries which lagged at the back of the broadband pack with New Zealand at the

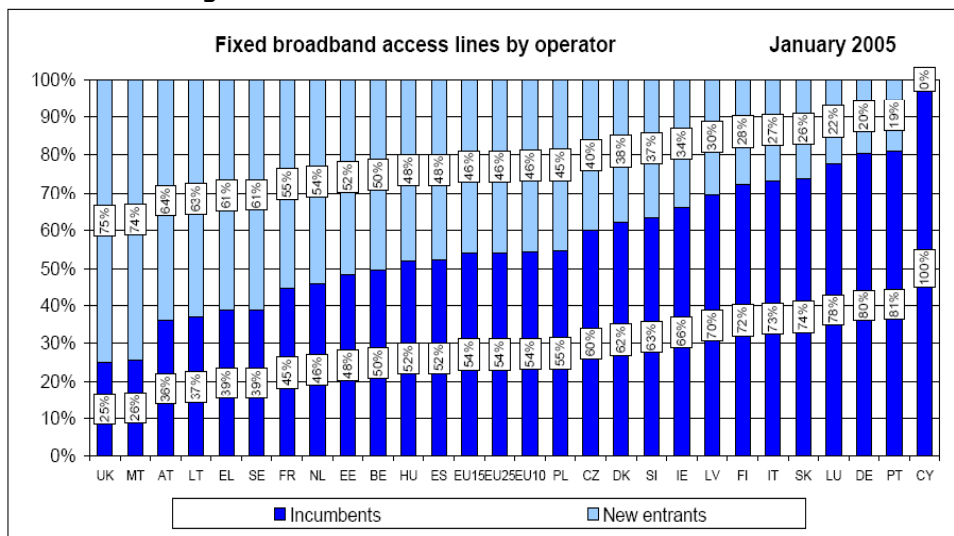
time of the LLU inquiry are rapidly pulling ahead, such as the UK and Australia; and

- d. **Lower retail prices:** the Minister has identified “below a dollar a day” as the “sweet point” at which broadband takes off.

**How can we achieve this?**

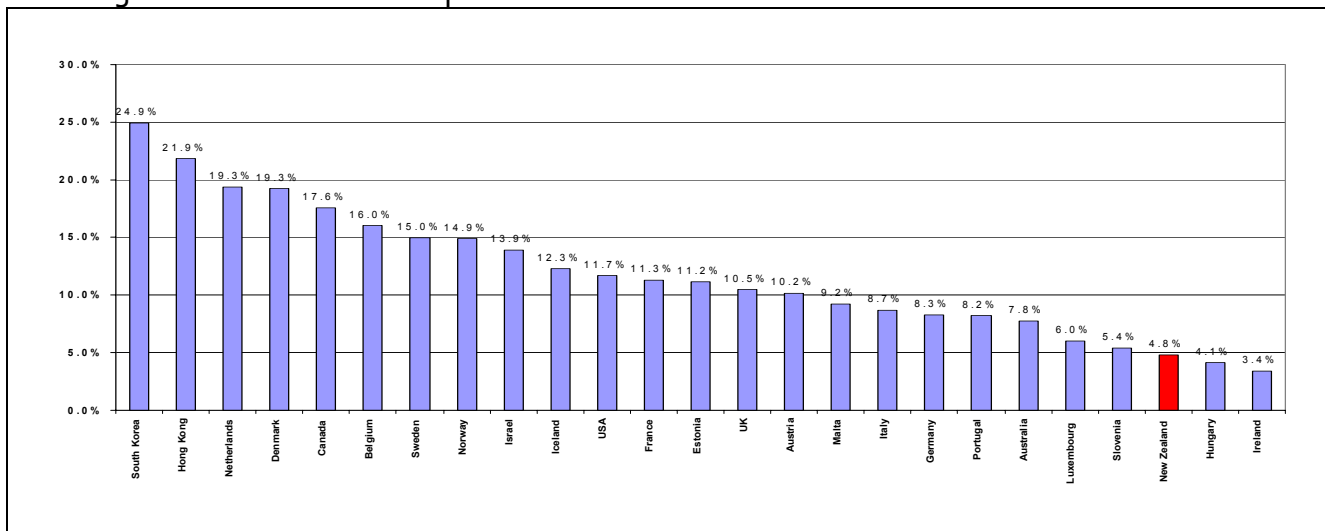
- 5. The answer, in TelstraClear’s view, is simple: vigorous competition. The overseas evidence bears this out. Countries which have the highest broadband growth rates also tend to have relatively low retail market shares for the incumbent, as can be seen from the following two diagrams.

**Figure 1: New entrant and Incumbent Market Shares**



Source: European Commission

**Figure 2: International Comparison of Broadband Penetration Rates 2004**



Source: Point Topic

6. For example, the UK is amongst the ten fastest growing broadband markets and BT's retail market share of DSL services has fallen to 35%.
7. As we are unlikely to see significant deployment of alternative fixed network in New Zealand, effective competition vitally depends on unbundled wholesale offerings from the incumbent, as it has in countries such as Australia, UK and France. Bitstream has been the main driver of competitor broadband growth in overseas markets: as bitstream is New Zealand's only unbundled access service for broadband, it is that much more important in our market.
8. Before I turn to outline the bitstream terms we are seeking, I will ask Malcolm Starr to outline how TelstraClear would use an unconstrained bitstream service in downstream markets.

### **What would TelstraClear do with bitstream?**

9. An unrate shaped bitstream service allows TelstraClear to offer a different range of speeds. But as importantly, it gives TelstraClear a level of control over the life cycle management of our customers. Because TelstraClear has in its hands the speed throttle, we are able to quickly set and change speeds in response to customer requests. With the resale service, we have to place a moves, adds and changes order with Telecom and wait days, sometimes up to 30, for it to be processed. With unrate shaped bitstream, our customer service representatives or the customer themselves would be able to key in requests, which can be processed on the spot or in a matter of hours.
10. We want customers to feel in control of their services and TelstraClear to be able to provide instant feedback and responses to customer service requests. We want to provide a total life-cycle experience for the customer from the moment the customer signs on to the time the customer leaves our services.
11. Simply put, whilst we see that the installation of ADSL services is complex today and time-consuming, customer service should not stop at the provisioning of the bitstream service. When the service is provisioned we want our customers to experience the ability to upgrade or downgrade their services almost instantly, to be able to change plans at the click of a button and be reassured that that their request will be listened to and actioned as close to instantaneously as possible.
12. Further, the ability to differentiate on speeds will support additional usage services and content provision such as multimedia downloading and streaming, trickledown services, such as gaming.
13. Telecom has listed innovations possible with bitstream such as: anti-virus, anti-spam, parental controls, multiple email addresses, domain names, web hosting, customer support, roaming, and additional usage (overage rates and bump packs). All these "innovations" do not require anything further than the technology that exists today and would survive with Jetstream resale – and the grade of offering that is commercial UBS today. We want to be able to deliver more to our customers.

## What action is needed?

14. TelstraClear considers that the supply terms for the wholesale bitstream service proposed by the Commission in its draft Wholesale Bitstream Determination will represent a substantial and necessary step towards achieving effective broadband competition in New Zealand. However, we believe that the Commission needs to go further if the step-change in wholesale services and broadband uptake that the Government seeks is to be achieved.
15. We consider that the Commission should:
  - Confirm the proposed non-rate shaped service, subject to TelstraClear's proposed service management approach to address any potential technical issues;
  - Confirm that access should be available on a national basis as the broadband Internet access market is national in nature and Telecom is subject to limited competition;
  - Revise the pricing imputation to ensure that alternative operators can effectively compete and a uniform wholesale price is set for the non-rate shaped service. Wholesale Bitstream access is not resale and accordingly Telecom's retail pricing practises, such as its residential/business customer segmentation, should not be locked into wholesale pricing; and
  - Provide further guidance and oversight on Operational Support Systems. If the Commission's principle of "no material difference", as measured by the retail customer experience, is to be achieved then minimum OSS deliverables and timeframes will need to be determined.
16. I will now briefly explain our reasons for these views.

### ***A non-rate shaped wholesale bitstream service is key to improving broadband competition and uptake***

17. Bitstream is not resale and the speeds of retail product offered by competitors should not be locked to Telecom's retail products. The Commission itself, in identifying concerns with Telecom's commercial UBS offer, pointed out that "*the regulated service includes all downstream speed variants capable of being supported by the network.*" This is exactly what TelstraClear is seeking in requesting a non-rate shaped service – access to all downstream speeds the network can support (not just those Telecom chooses to offer). It is then up to TelstraClear what retail speeds and products we create for the benefit of end-users.
18. The technical issues of reach, noise and speed raised by Telecom are not unique to an unrate shaped service but are part of the everyday management of a DSL network. We also note that overseas operators such as BT are moving to offer higher speed services, up to 8Mbits depending on line characteristics, and think that the technical issues can be managed.
19. However, as an interim measure in an effort to address Telecom's concerns, TelstraClear has proposed a conservative service management approach, based

on testing the noise level on all requested bitstream lines. We would accept a specific line rate service for lines with relatively high noise levels pending development with Telecom of agreed standards to address noise.

***The wholesale bitstream service should be available on a national basis***

20. DSL is and is likely to remain the main broadband access technology. Other technologies are being deployed on a localised basis but do not represent a significant competitive constraint on Telecom's pricing. Bitstream is a mass-market service that, as Telecom's pricing and advertising shows, is most effectively marketed on a nationwide basis.
21. Telecom's market share is still extremely high – close to double that of Telstra's and more than 3 times that of BT! In the UK, Ofcom found that the broadband market was national despite cable operators having collective market shares of over 60% in areas covered by their networks. New entrant regional market shares are nowhere near that in New Zealand - for the level of broadband competition to improve here, an effective wholesale bitstream service must be available on a national basis.
22. Our experience of the sub-national markets for other wholesale services is that they increase the costs and complexity of the sales and service delivery processes and are confusing to end users.

***The wholesale bitstream access service should be priced on a uniform basis***

23. A single wholesale price should be imputed unless there are differences in the wholesale access service for business and residential customers. We are not aware of any other country where wholesale bitstream access prices differ by customer type, unless there is a difference in the service being provided, such as in contention.
24. A uniform wholesale price will not mean uniform prices in the retail market. As access seekers provide the speed (transmission) related elements that largely form the basis of downstream product differentiation, a range of product-and-price differentiated services is likely to be made available by competitors in the downstream market.
25. Given the benefits of a non-rate shaped wholesale service, TelstraClear considers that the Commission's approach of:
  - a. first imputing a retail price for the non-rate shaped bitstream access service by looking at all of Telecom's retail DSL services; and
  - b. then deducting avoidable costs,is appropriate and pragmatic. However, the imputation method needs to be made more robust – we consider that the arithmetic approach, in providing a range of potential prices, is a useful way forward.
26. Further, if wholesale bitstream is to facilitate true competition such that prices are competed down to the \$1/day levels the Minister believes are needed to drive broadband take-up and fulfil the goals of the Government's digital

strategy, then the imputed wholesale price needs to get well below the \$26 residential price proposed by the Commission in the Draft Determination. As Network Strategies' analysis suggests this significantly overstates the imputed bitstream access price.

27. Clear rules are also needed to deal with retail price changes and the impact on the wholesale price. It is also important that the relativities between resale and wholesale bitstream are monitored, as is increasingly happening overseas.

### **Improved OSS is vital to a "healthy and competitive" wholesale market**

28. TelstraClear welcomes the Commission's requirement that: "*Telecom provide a level of operational support to TelstraClear, whether manual or automated, such that there is no material difference in provisioning or fault repair in regard to the experience of retail customers ...*". We consider this equivalence of operational support is key to the success of wholesale bitstream in driving retail competition. If the customer experience isn't materially equivalent this will act as a barrier to switching and hinder competition.
29. As Deloitte demonstrated in its report, the OSS system proposed unilaterally by Telecom would significantly increase TelstraClear's costs in provisioning and installing broadband for a customer. So much so, that the additional costs introduced would almost have the same effect as the churn fee that the Commission determined Telecom should not be permitted to charge, as it would act as a significant barrier to competition.
30. Therefore, we believe that overseas experience and NZ experience in developing industry solutions (such as for number portability) suggests that closer involvement of the Commission is required in settling the OSS requirements. We consider that the Commission needs to:
  - a. determine an interim OSS solution for electronic data exchange such that costs are not loaded onto access seekers' by Telecom-designed processes and competition can get off the ground. A basic level of electronic exchange of data is crucial from day 1 and is, based on Telstra's experience, achievable by the parties; and
  - b. set the framework and timeframe for the agreement and implementation by the industry of a fuller solution for OSS.
31. It is also important that the proposed KPI monitoring to ensure consistency of delivery between wholesale and retail also covers support processes such as ordering, provisioning and fault repair rather than simply technical aspects of the wholesale bitstream service.

### **Concluding remarks**

32. We recognise there are a range of implementation issues on which TelstraClear and Telecom will have to work together to find mutually acceptable solutions. However, we are also concerned by the prospect of drawn out negotiations further delaying our market entry. We have suggested a number of pragmatic interim solutions on issues such as line speed and OSS to address Telecom's concerns while the parties negotiate the longer-term arrangements.

33. TelstraClear looks forward to the opportunity to answer any questions that the Commission may have for us on the wholesale bitstream access determination.

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TelstraClear