



Commerce Commission

Statement for Consultation on Bitstream Application

27th October 2005

Submission by CallPlus



G.Walmsley

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Introduction:

CallPlus welcomes the opportunity to comment on the recent Statement for Consultation from the Commission, summarizing the thinking of the commission after the comprehensive submission & cross submission process around the TelstraClear Bitstream Determination.

Overall CallPlus endorses the approach outlined as being in line with our views and should be a significant step forward. We hope that the commission will remain consistent with this approach and we anticipate a short timeframe to a final determination.

Whilst agreeing with the commissions thinking we would like to note that CallPlus and a number of ISP's have a significant concern around the Sustained Information Rate (SIR) requested by TelstraClear. We outline our concerns in more detail later in the document.

The commission covered a number of areas and we would like to make the following comments.

Unconstrained Peak Information rate (PIR)

CallPlus agrees with the commission views on this, in particular -

- The benefit from an unconstrained service far outweighs any potential short term detriment, furthermore we are not convinced by the argument that there will be an impact. However, as noted, any impact would be no different to the impact of Telecoms own full speed service.
- We are pleased that the PIR should be reflective of the technology available not simply fixed by the technology currently deployed.

Uniform Bitstream access price & other pricing aspects

We support the approach of a single wholesale price for the service and this will remove the artificial constraints that Telecom have been able to impose on New Zealanders through their retail pricing strategy.

In terms of the level of price we accept the commission's findings and we are pleased that the price will be adjusted quarterly to reflect any new plans.

Based on the commissions findings we would expect to be able to negotiate a churn fee that is a fraction of the current artificially high churn fee; which is simply a barrier to



switching. Our preference would be for the commission to determine the fee in order to ensure consistency and a level competitive playing field.

Sustained Information Rate (SIR)

TelstraClear has requested a “weighted average SIR”. We note the commissioners comments that this would not prevent a request for setting a different SIR on a subsequent application and believe that this is a key point should a commercial outcome not be available.

We, and a number of other ISP’s, have serious concerns about the performance of this product during peak hours, particularly when compared with Telecoms own higher speed products and given the extended congestion that is being experienced by users.

We believe that there is a gap in the current proposal as a result of the absence of any provisioning rules. CallPlus would like to see the commission address this issue by placing some provisioning rules around the connection between the DSLAM and the LAC and the LAC to the handover point with the other party.

We suggest that the Commission establish measures & performance standards based on an average utilization measured in 5 minute intervals over a time period.

CallPlus suggests as an option that it is a requirement that the shared virtual path is provisioned to ensure that the measure is not above a 95% utilization for any longer than a 2 hour period, measured on a rolling basis. This will allow for peaks and troughs in utilization but ensure that the product does not perform poorly as a result of sustained network congestion.

Appropriate measures, reporting and reimbursement levels for non-performance would need to be established to ensure that the requirements are met.

We would expect that the cost of providing the additional capacity to be minimal and we would reference the current price of backhaul (which is independent of PIR and SIR) charged by Telecom.

New Zealanders have to date received some of the slowest broadband at the highest prices when compared with other OECD countries. It is our view that this needs to be addressed now and that the proposed product with an unconstrained PIR should not be rendered impotent because of the absence of appropriate provisioning rules.