



COMMERCE COMMISSION

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Please refer to:

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21 February 2006

Bruce Parkes
General Manager
Government & Industry Relations
Telecom New Zealand Limited
PO Box 570
Wellington

Dear Bruce

Commercial UBS

There has been recent comment in the media suggesting that an ISP accepting Telecom's commercial UBS offer may be prevented from applying for access to a regulated bitstream service with characteristics different from the commercial UBS services.

The Commission considers that such an approach, if accurately reported, would be an unfortunate departure from Telecom's previous position, where an access seeker could seek a different service from the Commission where a commercially negotiated solution could not be found for a variant of the regulated bitstream service.¹

In 2004, the Commission and Telecom had considerable dialogue prior to the launch of Telecom's residential 256/128 UBS service. As a result of these discussions, the Commission issued several media releases to clarify the interaction between commercial and regulated bitstream services.² This included an acknowledgement from Telecom that the regulated bitstream service had features and characteristics that may not be currently offered as part of its commercial UBS service, and that the regulated bitstream service would be available as well as Telecom's current commercial service.

I would be concerned if access seekers, in reaching commercial agreement for commercial UBS services, were unable to avail themselves of the opportunity to access

¹ Telecom, *Unbundled Bitstream Service (UBS) - Frequently Asked Questions*, March 2005

² Commerce Commission Media Release, *Telecommunications Act: Commission clarifies interaction between commercial and regulated bitstream services*, 10 September 2004, *Current UBS not the service recommended by the Commission*, 16 August 2004, *Telecom clarifies its commercial bitstream service offer*, 25 August 2004

regulated bitstream services with different characteristics under the Telecommunications Act.

The Commission would appreciate Telecom's comment on this matter.

Yours sincerely

Douglas Webb
Telecommunications Commissioner