



**TELECOMMUNICATIONS USERS ASSOCIATION OF  
NEW ZEALAND INC  
P O Box 33 1014, Takapuna, Auckland**

27 October 2005

Mr Douglas Webb  
Telecommunications Commissioner  
Commerce Commission  
P O Box 2351  
**WELLINGTON**

Dear Commissioner Webb

**TELSTRACLEAR BITSTREAM ACCESS  
STATEMENT FOR CONSULTATION**

TUANZ thanks the Commission for the opportunity to comment on the above document dated 12 October. We are generally very pleased with the progress of the Commission's thinking, and with the transparency of the process the Commission has been following. This determination, if it is not diluted, will signal a major turning point for broadband uptake and telecommunications competition.

Technical Specifications

While recognizing that the application under consideration is specific to TelstraClear, TUANZ is concerned that the service specifications within it should not be allowed to become a ceiling for other ISPs, either through commercial arrangements or through subsequent applications to the Commission for access determinations. This would be undesirable because in the view of TUANZ the service parameters that TelstraClear has requested fall significantly short of those demanded by many forward-leaning Internet users. There are two reasons for this.

First, we suspect that TelstraClear's customer base may be somewhat skewed toward customers who are relatively undemanding in terms of the bandwidth and services they require. Our perception is that many leading edge, more demanding and sophisticated users have tended to migrate to the smaller emerging ISPs such as Ihug, Slingshot and Orcon, whose image conveys an

expectation of higher speeds, faster service, and a greater sense of empathy with the leading edge user. Their plans are also targeted more closely to the needs of the upper end customers, rather than reflecting the needs of the mass market. This comment is not a criticism of TelstraClear, but an observation that ISPs with incumbent parentage internationally are likely to be more conservative in their service offerings than the independent new entrants who traditionally drive market growth.

Second, even while investigations like this one are in process, the world moves on. Speeds and expectations worldwide have increased in the time since TelstraClear lodged its application, and the complexity of Internet sites and data traffic have followed suit. The growing move to Voice over IP means that "real time" service will rapidly become an essential attribute of any Internet service for businesses and individuals.

In short, while the parameters TelstraClear has requested may satisfy its own business needs, it would be a mistake to assume that New Zealand users would be satisfied with a service at this level for the lifetime of this determination.

TUANZ strongly supports the Commission's view that the PIR should be at the maximum speed of which the DSLAM is capable. We note that even since the Commission's paper was released Telecom has continued to claim in public that 72,000 existing customers would be placed at risk. TUANZ agrees with the Commission that such a claim has little credibility and should not be given any weight. If any customers were adversely affected TUANZ believes it would be a far smaller number, and the issue could rapidly be resolved by Telecom rectifying its under-investment in the bottleneck areas of its network that may be causing the problem.

For New Zealand to go anywhere near achieving the Government's Digital Strategy objective of Top Quartile of the OECD for Broadband, the Commission must send powerful signals to the incumbent that where it controls bottleneck services or dominates markets it must invest in providing 21<sup>st</sup> century services, both retail and wholesale. Requiring Telecom to deliver an unconstrained UBS is a crucial signal for the Commission to send.

### Initial Pricing Principle

TUANZ acknowledges that the Commission has accepted the arguments made by ourselves, among others, that a single wholesale price be charged, with any discriminatory pricing to be applied by each wholesale customer acting independently. We stress that this principle must hold firm into the final determination, otherwise the UBS will effectively degenerate into a reselling facility with Telecom continuing to ration and control the downstream market.

We have no specific comment on the price of \$26.57 other than to observe that it will have a significant impact in driving broadband uptake in line with the government's aspirations.

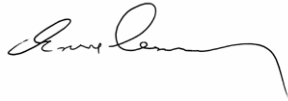
We applaud the indicative churn charge of around \$36 and note the gulf between this figure and that which Telecom initially sought to impose on its competitors – no more than a tax on competition.

OSS and Timeframes

TUANZ has no comment under these headings.

Thank you again for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ernie Newman', with a long, sweeping underline that extends to the right.

Ernie Newman  
Chief Executive