

PUBLIC VERSION



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7 November 2005

Douglas Webb
Telecommunications Commissioner
Commerce Commission
PO Box 2351
WELLINGTON

BY EMAIL: douglas.webb@comcom.govt.nz

Dear Douglas

Implementation of the bitstream access service specified in the Commission's Statement of Consultation

1. The purpose of this letter is to respond to the Commission's proposed implementation period set out in its Statement of Consultation dated 12 October 2005.
2. Telecom set out its understanding of the Commission's regulated service in paragraph 25 of Annex A to a letter dated 27 October 2005 (Letter Bruce Parkes to Douglas Webb). Telecom has investigated implementation and produced a timeline on the basis that its understanding of the regulated service is correct. No advice to the contrary has been received. If the regulated service changes, the timeline will need to be revisited.
3. Based on the advice of internal and external experts, the minimum implementation period for the Commission's proposed regulated service is 16 weeks. This timeframe assumes that TelstraClear's regulated service receives top priority and all the resources (internal and external) required five days a week for 16 weeks.
4. The 16 week timeframe excludes any allowance for unknown issues that may arise. Further, subject to timing, if the deployment in the network were required during the "brown-out" period, the minimum implementation period increases up to 20 weeks. Telecom's internal experts have prepared a timeline in consultation with Alcatel and EDS for implementation of the service assuming a 5 December 2005 start date. The timeline assumes that deployment in the network will not need to occur during the brown out period. The justification for Telecom's proposed timeframe is discussed in more detail in Annex A to this letter. The project timeline appears at Annex B.
5. While Telecom appreciates that the Commission is guided by standard access principle 1 to achieve a timely implementation, a requirement to implement the regulated service within 4 weeks is not achievable. It would require Telecom to ignore the advice of its internal experts and the external advice of Alcatel and EDS who operate under standards of international best practice.

6. In Telecom's view, the Commission's proposed implementation period is also inconsistent with the limitations to the standard access principles set out in clause 6 of Schedule 1 of the Telecommunications Act. The proposed four week timeframe does not take into account reasonable technical and operational practicability having regard to Telecom's network, nor does it allow for sufficient testing to ensure the security and safety of the network will not be put at risk.
7. We would be happy to elaborate if this is of assistance.

Yours sincerely



Bruce Parkes
General Manager
Government & Industry Relations

Annex A

Explanation of the implementation timeline of the regulated bitstream access service

1. At paragraph 57 of the Statement of Consultation the Commission stated:

The Commission would expect that the design and implementation of this service should be completed within a period of **not longer than four weeks** from the date of the final determination. Should Telecom consider this period is insufficient, it should supply with its submissions a detailed implementation plan with justification for the timing proposed. [emphasis added]

2. The Commission granted Telecom an extension until 7 November 2005 to provide information in relation to the implementation period. This was necessary in order to enable Telecom to take internal and external advice as to the service specified in the Statement of Consultation.
3. The regulated service that the Commission has mandated in the Statement of Consultation is described at paragraph 25 of Annex A of Telecom's letter dated 27 October 2005.
4. The standard access principles and limitations applying to designated services are set out in clauses 5 and 6, respectively, of Schedule 1 of the Telecommunications Act. The limiting factors on those principles that are particularly relevant in this case are in clauses 6 (a) and (b).
5. Telecom considers that an implementation period of four weeks or less as set out in the Statement of Consultation is contrary to clause 6. It is technically and operationally impracticable to implement this service in 4 weeks. Further, the Commission's proposed timeframe does not allow for sufficient (or any) testing to ensure that the network will remain secure once the service has been implemented. Without sufficient testing, Telecom risks introducing unknown elements into its network with a potential to have detrimental effects. This is not something that a prudent network manager would do. If something went wrong it could affect a large number of customers. [

JTCNZRI. The Commission should not make a determination that breaches clause 6 and places Telecom in immediate default of a determination.

6. The minimum timeframe within which Telecom can implement the service is 16 weeks. This 16 week period makes no allowance for unanticipated problems arising during implementation or for the annual brown out period. The key matters that need to occur (and in this order) are:
- Project initiation which includes writing a final service specification, project brief and plan to ensure all parties – including Alcatel, EDS, other suppliers, internal Telecom resource, and TelstraClear are all fully aware of the requirements. While some preparatory work is underway, this cannot be completed until the final determination is made.
 - Development which includes:
 - Pricing development and implementation
 - Provisioning
 - Billing
 - Network capability
 - Operational capability
 - Backhaul implementation¹ (outside the scope of this determination)
 - A trial to ensure workability prior to the regulated service "going live". (The trial period set is shorter than Telecom would prefer)
 - Launch including user guides, technical documentation and set-up. (The Commission will note from Annex B that the regulated service is launched before user documentation is completed. This is not standard or preferred practice but is a result of the provision of the minimum timeframe necessary).
 - Project Close off. (Similarly, the regulated service will be operational and this process does not impact on the timeline).
7. Telecom notes that if something were to go wrong during the implementation of this service it would need an extension of time.

¹ The project schedule assumes TelstraClear's existing Points of Interconnection are used, no additional interconnect points nor expansion or existing POIs are included in this plan. The minimum period for implementation of backhaul is included for completeness but is not the subject of this determination. While included, removal of it from the timeline does not affect the 16 week period.

Time not resourcing issue

8. The time that Telecom requires to implement the service is not related to staff resourcing. Telecom's timeline has been prepared on the basis that implementation of this service has priority for resourcing across all other projects. Rather, Telecom needs sufficient time to change its network, systems and operational processes and carry out testing to ensure that the service works as required once the relevant changes have been made. Accordingly, the service cannot be implemented more quickly by Telecom providing additional resources.
9. Alcatel and EDS are two of Telecom's suppliers and both have had a great deal of implementation experience overseas. The timeframe Telecom sets out in Annex B has been developed with input from key suppliers as well as expert internal resource. This is the "best case" timeline. The Commission's proposed timeframe is not feasible. It does not allow for appropriate development time, satisfactory (or any) testing nor any trial. Alcatel and EDS are internationally recognised companies that have defined standards to meet best practice. The development and testing Telecom intends to undertake under its proposed timeframe is consistent with those standards.
10. Further, standard access principle 2 provides that the service must be supplied to a standard that is consistent with international best practice. In order for Telecom to be sure that the service will meet this principle it needs to carry out testing that is itself consistent with international best practice. The minimum Telecom considers is achievable is specified in Annex B.

Interleaving

11. While it is possible for interleaving to be turned on and off on a single port and Telecom's timeline includes this capability, Telecom is not able to predict the impact of this option on its network, and therefore on TelstraClear and other users. The Commission has explicitly chosen not to provide for testing of the option of turning interleaving off in its proposed timeframe.
12. The timeline for implementing the service with no testing of interleaving is therefore as set out in Appendix B. The consequences of not testing have been set out in previous submissions. In short, there is a higher probability that a line will become unstable, a risk of unpredictable performance of the regulated service due to the increased noise and interference, and an increase in packet loss and resynchronisation events for those lines with interleaving turned off.
13. In Telecom's view, it would not be prudent for a regulator to require interleaving to be turned off without permitting adequate testing and sufficient time to consider the results. Without the ability to test, Telecom takes no responsibility for any instability, unpredictable performance, or other effects that may occur on a line with interleaving turned off.

Allowance required for brown-out period

14. As noted in Telecom's submissions of 9 September 2005, Telecom has a network planned work restriction from 12 December to 6 January 2006 (brown-out period). During this period no new work may be undertaken on the network. This means there can be no testing or deployment during this time. This occurs every year and is consistent with standard industry practice and well known to the New Zealand industry. Accordingly, the brown-out period needs to be taken into consideration by the Commission in calculating the implementation period.
15. Telecom's timeline assumes an implementation start date of 5 December 2005. Commencement of implementation on this date avoids the impact of the network brown-out. Building and development can still be carried out but Telecom avoids deployment and testing occurring during the brown out period. If the start date is earlier or later, the brown out period may increase the timeframe from 16 weeks up to 20 weeks.

Different implementation required than for full speed JetStream

16. For the avoidance of doubt, the regulated service is significantly different from the existing full speed JetStream services for the following reasons:
 - Full speed JetStream is a layer 3 service whereas UBS is L2TP.

- There is no option to turn interleaving off.
- The profile is different.
- The provisioning, billing, pricing and operational processes are quite different e.g. the customer has the option of refusing service or seeking a refund if the line is below a certain speed in the case of full speed JetStream, but this will not be the case in relation to the regulated service.

17. In addition to the basic service there is work required to implement TelstraClear's backhaul, and, where necessary, to increase the network capacity based on a minimum 3 month forecast provided by TelstraClear before the implementation start date. As noted above, backhaul was withdrawn from the original application and is not part of the determination.

Spectrum management issues

18. The Commission's approach ignores the spectrum management issues on which we have submitted and most recently summarised in our submissions dated 27 October 2005. The implementation timeline therefore omits any development to deal with these issues.

Linechecker

19. The linechecker for this service will advise whether service is available but will not, as set out in previous submissions, represent the speed that may be achieved.

Further Points to Note

20. This timeline focuses solely on implementing the regulated service set out in the Commission's Statement for Consultation of 12 October 2005.
- It does not (and cannot in the timeframe set out) include the ability for customers to migrate from other products e.g. JetStream / Wholesale Broadband or commercial UBS, to the regulated UBS service. This capability will be developed and implemented after this initial implementation for TelstraClear.
 - For backhaul (and ultimate use of the regulated service by TelstraClear) it assumes TelstraClear's Points of Interconnect are those available today. Additional POIs and expansion of existing POIs are excluded.
 - Implementation for any other Service Provider is excluded.
 - Any changes to the service or unforeseen issues may result in changes to the timeline.

Operational Support Systems (OSS)

21. We have responded on implementation of OSS in previous submissions. In short, TelstraClear will have Online Order & Tracking as offered to the rest of industry. As in our submission of 27 October, we are unable to implement two of the changes referred to in the Statement of Consultation (ie service visit inquiry and booking of appointments for MACs and service visit inquiry and booking of appointments for faults) in the timeframe set out in the TelstraClear roadmap which the Commission indicated in its Statement that it intended to accept.