



GOVERNMENT & INDUSTRY RELATIONS

Telecom New Zealand

Level 2, North Tower, Telecom House
68-86 Jervois Quay, PO Box 570, Wellington
Tel: (04) 498 5573
Fax: (04) 473 9190
Email: bruce.parkes@telecom.co.nz

8 April 2005

Douglas Webb
Telecommunications Commissioner
Commerce Commission
PO Box 2351
WELLINGTON

Dear Douglas

TelstraClear UBS application

I refer to TelstraClear's letter of 22 March 2005 on UBS.

I take from the collective correspondence from ourselves and TelstraClear on this issue that at a philosophical level we are in agreement that:

- the retail service upon which UBS should be based is Telecom's JetStream service;
- the underlying network performance of UBS should be consistent with JetStream;
- this in turn means that ex ante service specifications setting technical performance characteristics that the UBS should be managed to, can be avoided; and
- the retail customers of access seekers should not experience any difference in non-network service aspects such as fault repair and provisioning.

As a solid philosophical framework we believe this provides a way forward for the Commission that will receive wide spread industry support and will be seen by industry observers as fair and reasonable.

At a lower level of detail it is perhaps not surprising that TelstraClear and Telecom differ on matters of implementation. Rather than a detailed critique of TelstraClear's letter I would in fact make a general point that the Commission should be wary of introducing undue levels of complexity and cost into monitoring and measuring.

Telecom does have a growing concern at the gradual increase in costs in this general area. Over time it is easy to add a requirement to measure x, test y and have an audited report on z. Individually the costs may not be large but, collectively the costs can easily mount. There is of course an inherent bias in growth in this type of requirement as it is easy to say "yes" to a requirement to report or measure something but seldom as easy to drop these requirements when they outlive their useful lives.

Telecom looks to the Commission to ensure that any additional costs imposed on the industry as a result of its determinations are:

- (a) the minimum necessary; and
- (b) that they can be efficiently incurred and add to the efficacy of a determination.

The case in hand is a good example where these principles should be applied. The testing regime put forward by TelstraClear would be very onerous, costly and of questionable value given the inherent difficulties in measuring a service that is by design highly variable second by second.

As TelstraClear itself notes, the physical design of the UBS service with the wholesale and retail bitstreams being managed in the same collective bitstream means 'that non-discrimination is the only possible outcome ' (para 5 of TelstraClear's letter of 22 March). This is of course exactly how we see UBS/JetStream working. On that basis, it is our view that the Commission can find that this is the case and it should in fact see no need for any physical testing. However, as set out in our letter dated 11 March 2005, if required, we would support an annual testing process carried out with a third party.

On customer service oriented attributes such as fault repair and provisioning, the way in which Telecom's processes are designed is such that access seekers are treated in a comparable manner. TelstraClear appears to be saying that a complex 'deconstruction' should occur with access seekers receiving a defined level of performance that uses the retail performance as a base.

TelstraClear's underlying approach is concerning for Telecom from an operational and cost perspective. We have worked very hard to get a successful UBS service up and running. The sales at wholesale which we are now seeing even without TelstraClear reflect the system is working well.

We are dealing here with very complex and often new sets of issues for the Telecom teams in charge of making UBS work. Any regime that splits out wholesale from retail and requires unique sets of performance measures for wholesale will result in significant costs and distraction for our operational teams. There is little doubt, with the huge volumes of broadband sales and the tight timeframes for UBS implementation, that the operational teams involved are under considerable strain. We are certainly looking to the Commission for simple straightforward outcomes from the UBS determination.

Our overall view remains that the Commission should use the end user experience as its touchstone. It should require that Telecom's JetStream and UBS are comparable in terms of the end user experience in respect of underlying network performance and customer service related attributes such as faults and provisioning. Having put in place such a framework it should allow commercial arrangements to be determined by the parties. We have a successful set of commercial arrangements with 12 or more other ISPs. TelstraClear is the only commercial player of any significance not now on our UBS service. If the

Commission sets a simple and workable framework that avoids large scale cost and complexity then we are confident that we can move forward with TelstraClear as well.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'BP', is positioned below the closing 'Yours sincerely'.

Bruce Parkes
General Manager
Government & Industry Relations

cc: Grant Forsyth, TelstraClear Limited