

1 May 2006

Chris Abbott
Chief Adviser, Network Access
Commerce Commission
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Dear Mr Abbott

Submission on the Ihug and Callplus applications for regulated bitstream access

Federated Farmers is an industry organisation representing approximately 17,000 farmers across New Zealand. Federated Farmers has a long history of representing the interests of the farming and surrounding communities across a wide spectrum of issues, including those of communications.

The ability to access broadband services is increasingly becoming a major factor in the drive towards improved productivity and international competitiveness of New Zealand farmers. Federated Farmers therefore takes a strong position on any regulatory decisions that are likely to have an impact on the ability of farmers to access affordable broadband services. As such, we made two submissions in response to the TelstraClear application for regulated bitstream services for which the Commerce Commission released its Decision 568 in December 2005.

In our submissions on that application we expressed our concerns concerning both the potential negative effects to end-users through the reduced reach of an unconstrained speed service, and the negative effects of the Commission's proposed pricing structure on future rural broadband investment.

The subsequent commercial deal between TelstraClear and Telecom which set a maximum speed of 3.5Mb/s for the unbundled bitstream service has allayed some, but not all of our concerns concerning the effects on broadband reach. We have ongoing concerns as to the effects of Decision 568 on rural broadband investment, which we outline below.

We understand that Ihug and Callplus have applied to the Commerce Commission for an unconstrained bitstream service on the same terms as those determined for (but not taken up by) TelstraClear in Decision 568. The Federation therefore wishes to restate its concerns as to the effects of an unconstrained speed bitstream service on broadband reach and rural broadband investment.

In paragraphs 239-240 and 243-244 of Decision 568 the Commerce Commission accepts the risks of degradation or loss of DSL service to end-users on long lines, but concludes the competitive benefits of a higher-speed service outweigh the potential

detrimental effects. The Federation was dismayed to see the Commission essentially “trade off” broadband availability to a potentially large number of New Zealand farmers and their families for higher speeds to customers closer to Telecom’s exchanges. The Commission’s conclusion that other broadband technologies (fixed wireless and satellite) could provide broadband to current and potential users cut off from current DSL coverage overlooks that fact that these technologies are more costly (both in terms of monthly charges and installation costs) than the equivalent DSL service. There are fundamental equity issues we believe in a regulatory decision that potentially deprives current users of a service and offers them as a replacement a service that is costlier.

The Commission believed that Telecom had not proven the risks to end-users. The Federation however does not see any material in Decision 568 that proves the competitive benefits outweigh the risks to end-users. We maintain that a full consideration of the effects of an unconstrained service on rural customers is critical to the Commission’s investigation of the Ihug and Callplus application. We urge the Commission, as we did in our submissions on the TelstraClear application, to undertake a serious empirical study around what we consider to be a vital trade-off between higher speed to some city-dwellers versus broadband availability to farmers and their families.

We note in Telecom’s submission of April 12 2006 the notion of a spectrum management regime that would allow higher speeds to be delivered in a controlled environment that would retain the current reach of broadband. Federated Farmers supports Telecom’s statement that a spectrum management regime should be put in place before higher speeds are offered, and we urge the Commission to take this into account in its investigation.

Finally, the Federation wishes to comment on the potential impact on wholesale broadband pricing and broadband investment drivers of an unconstrained bitstream service offered on the same terms as Decision 568. Telecom has informed us that the current pricing regime which has come about following Decision 568 has essentially seen a freeze in further rural broadband investment. We understand this is a result of the removal of differential pricing between residential and business services which have distorted the economics of rural broadband investment.

This is a particularly dire outcome for rural New Zealand, and one of the most distressing results of the Commerce Commission’s Decision 568. A further degradation of rural investment economics brought about by any further revisions of both the wholesale price point and the ability to differentiate on the basis of speed (which we understand may also be under threat) can only worsen an already bleak outlook for rural broadband services. Federated Farmers has a strong interest in property rights and their importance in providing confidence to invest and we therefore urge the Commission to give serious consideration to the effects of its past and future decisions on future broadband investment in rural New Zealand.

The Federation concludes by reiterating its closing remarks made in respect of the TelstraClear application. It is widely recognised that there is a desire for more speed but this must be weighed against the potential loss or degradation in services to the rural community which provides the backbone for this country.

In many respects this is another example of a piecemeal approach being taken to telecommunications regulation. What is needed is a higher level discussion first on what level of service is needed for all New Zealand and followed by what commercial drivers will be required to fund this level of service and how competition can play its part in delivering it.

In the meantime it is little comfort to Federated Farmers that broadband appeal and speed may be improved for some urban people if our member base can either no longer access broadband services or receive a much reduced service quality.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Hugh Ritchie".

Hugh Ritchie
National Board Member