



**The Internet Society of New Zealand Inc
(known as InternetNZ)**

**InternetNZ Submission in respect of
the applications by IHUG and CallPlus
for access and interconnection with
Telecom's fixed PDN service
("bitstream access")**

1 May 2006

**Public Version
(there is no private version)**

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1 InternetNZ and its role in the Industry

- 1.1 InternetNZ (www.Internetnz.net.nz) is a not-for-profit, Incorporated Society that represents wide ranging views of the Internet community. Our vision is to see the Internet as open and uncapturable, offering high performance and unfettered access for all. Our mission is to protect and promote the Internet in New Zealand.
- 1.2 Membership to InternetNZ is open, at a nominal fee, to any person or organisation, and includes web designers, academia, public information groups, Internet users and many Internet Service Providers. InternetNZ also represents the New Zealand Internet community in some global Internet organisations. Our membership has been instrumental in the development of the Internet in NZ and continues to be closely involved with the operation, governance and promotion of the Internet. InternetNZ is the delegated authority to manage the .nz domain name space.
- 1.3 Our key objectives include the promotion of competitive provision of Internet access and services, to facilitate the development of the Internet, and to promote widely and generally available access to the Internet in New Zealand. InternetNZ acts to fulfil its objectives to the advantage of the local Internet community as a whole, not to advantage individual persons or organisations who may be members.

2 Introduction

- 2.1 InternetNZ in this brief submission is relying on the Commission’s familiarity with the major arguments canvassed in its submissions made in respect of the TelstraClear UBS Determination (Decision 568) during 2005.
- 2.2 InternetNZ welcomes the applications by CallPlus and IHUG for a determination to allow access to an unbundled bitstream service on the same basis as that made available by the Commission to TelstraClear in Decision 568. It notes that a final determination on similar terms will provide a marked improvement as against the commercial UBS offering, while acknowledging that the commercial UBS offering is substantially improved compared with what was available last year (due in no small part to the Commission’s earlier determination).
- 2.3 Despite such welcome and acknowledged improvement, we note that New Zealand continues to languish near the bottom of OECD countries for broadband uptake, even based on a relatively limited definition of broadband (including the limitation of the regulated service to 128kbps). A determination arising from these proceedings would be a useful step toward improvement of that position, provided it was taken up, and therefore fulfilment of s.18 outcomes.

- 2.4 This submission briefly touches on some critical points arising as part of the current applications. If more substantive input should prove to be needed (which will be the case if the draft determination is substantially different to that of Decision 568) then InternetNZ will provide such input at the appropriate time. This submission is not a full exposition of InternetNZ's views on all issues raised by the applications.

3 General position on the application

- 3.1 As noted InternetNZ supports the access seekers' application for a determination consistent with that made in response to TelstraClear's application for access to UBS in Decision 568.
- 3.2 InternetNZ does not consider that any developments in the four months since Decision 568, nor any of the information provided by the access provider in their public submissions to date, justify any deviations from the framework set out in the earlier determination.
- 3.3 It is disappointing that the access provider continues to make assertions in several key areas of the application which are not sustained, as shown by InternetNZ's previous submissions in the lead up to Decision 568. Readers are referred to that earlier body of work to gain a sense of InternetNZ's full views in relation to the issues that may be canvassed in the course of this application.

4 Market definition

- 4.1 InternetNZ fully agrees with the Commission's view as stated in its "Decision Whether to Investigate the IHUG Application for Determination of Designated Access Services" (29 March 2006) that:

21. *In December 2005, the Commission undertook market analysis and competition assessment on the relevant markets for the bitstream access service in Decision 568. The Commission concluded that Telecom faces limited, or is likely to face lessened, competition in the national wholesale market for the provision of broadband access. **The Commission is satisfied that there is no basis for changing the conclusion and it remains current.***

(emphasis added)

- 4.2 None of the matters raised in any of the submissions so far give any reason to doubt the wisdom of the Commission's view. For the period of determination requested by the access seekers, this is likely to remain so. Access to the local loop infrastructure will be a key component of any ability to roll out broadband services on a national level for some time to come.

5 Proposed determination period

- 5.1 InternetNZ notes that the access seekers are seeking a determination for 24 months from the date of the determination (para 14, Application for Determination, 10 March 2006).

5.2 InternetNZ supports this proposed period.

6 Pricing

- 6.1 The need to revise the initial price from that provided in Decision 568 is an outcome of the adjustments made to retail pricing by the access provider since that decision was made.
- 6.2 InternetNZ has not done any modelling on the price and leaves it to the Commission to resolve an initial price. We do expect this to be lower than that in the previous determination based on lower retail prices.

InternetNZ
1 May 2006



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