



Telecom Corporation of New Zealand Limited
Lvl 1, The Plaza, Telecom House
2 Hereford St, Private Bag 92028
Auckland, New Zealand

Tel: +64 (09) 362 8108 Fax: +64 (09) 377 2659
Email: lucy.riddiford@telecom.co.nz
www.telecom.co.nz

Lucy Riddiford
Senior Counsel
Litigation

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Osmond Borthwick/ Neville Lord
Commerce Commission
P O Box 2351
WELLINGTON

BY EMAIL: osmond.borthwick@telecom.co.nz; neville.lord@telecom.co.nz

Dear Osmond and Neville

Reconsideration of Decision 582

1. We write to seek guidance from the Commission with regard to the calculation of the UBS price. There are two issues that we wish to raise:
 - What is the definition of "comparable services"? and
 - Is Telecom required to undertake a calculation as at 31 July 2007, in respect of the data cap changes made to Telecom's retail broadband plans effective 1 July 2007?
2. We are hoping to provide the Commission with the necessary calculation by Friday this week, but we need an answer in respect of, at least, the first issue before we can do the calculation.

Comparable services

3. We need information on the definition of "comparable services" so that we can undertake the WARP calculation as at 30 June, in order to establish the UBS price from 1 July.
4. The Commission will recall that Telecom submitted that all 128 kbps upstream plans should be considered to be comparable services. This was in paragraph 26 of our 13 March submission and reflected in the worked example we provided on pages 12 and 13. However the worked example provided in the Commission Reconsideration only used retail broadband services where those services were bundled with tolls.
5. Telecom can accept that the Commission appears to have made the decision that comparable services should be only those broadband services supplied without the requirement for tolls to be with Telecom, even though it hasn't set out the reasons for that decision. However, the wording in paragraphs 79 to 81 of the Reconsideration makes the process going forward unclear.
6. Paragraph 79 refers to all 128 kbps upstream plans regardless of tolls bundling and paragraph 80 refers to any new services introduced after Decision 582 being used in the pricing

methodology - regardless of bundling. Paragraph 81 however refers to only bundle plans being used for the purposes of price imputation. This might imply that the Commission sees a distinction between "pricing methodology" and "price imputation" although it is not clear what that distinction is.

7. Telecom needs to know how this section of the Reconsideration should be interpreted so that it can apply the appropriate inclusions and exclusions to its retail plans for the purposes of calculating the retail WARP.
8. Accordingly, we seek answers to the following questions:
 - Could the Commission please advise what criteria should be applied to selecting services, both which existed before Decision 582 and which were (or will be) introduced subsequently?
 - To the extent that some services with an upstream speed of 128 kbps should be excluded, what characteristics give rise to that exclusion?

1 July 2007 change to data caps

9. As you are aware, on 1 July 2007 Telecom increased the data caps on its Go, Go Express and Explorer plans.¹ The Commission advised that under the adjustment mechanism in Decision 582, no adjustment to the bitstream price would be required as a result of this change.²
10. As we read the adjustment mechanism in paragraph 201 of the Reconsideration, this change would give rise to an adjustment under the methodology in the Reconsideration. The calculation would need to be undertaken as at 31 July 2007 and backdated to 1 July 2007. The resulting price would then overwrite the price calculated as at 30 June 2007, being the quarterly adjustment.
11. Can you please confirm that Telecom is required to undertake a further calculation as at 31 July 2007 as a result of the 1 July 2007 change to data caps, in view of the fact that the Reconsideration post dates the retail change?
12. We look forward to your response.

Yours sincerely



Lucy Riddiford
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¹ Refer Telecom's letter dated 1 June 2007.

² Refer Commission's letter dated 11 June 2007.