



COMMERCE COMMISSION

**Revised Draft Review of the Standard Terms Determination for the  
designated service Telecom's unbundled copper local loop network backhaul  
(telephone exchange to interconnection point)**

**DECISION NO. XXX**

Draft Review Decision under section 30R of the Telecommunications Act 2001 of  
Decision 626

**The Commission:**

Dr Ross Patterson  
Anita Mazzoleni  
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**Date of Review Decision:**

XXX

## **Background**

1. On 27 June 2008, the Commerce Commission (the **Commission**) issued a standard terms determination (**STD**) under section 30M of the Telecommunications Act 2001 (the **Act**) in respect of the designated access service of Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnect point) (**UCLL Backhaul Service**).<sup>1</sup>
2. The conditions for the UCLL Backhaul Service require the Commission to identify the markets in which the UCLL Backhaul Service is supplied and to assess whether Telecom faces limited, or is likely to face lessened, competition in those markets. For the purposes of the UCLL Backhaul STD, this involves the Commission assessing whether Telecom faces limited, or is likely to face lessened, competition in the markets for transmission capacity between Telecom's local exchanges and the access seeker's nearest available points of interconnection (**ASNAPOI**). For the purposes of this assessment the Commission considers the wholesale markets for transmission capacity on each Primary Link<sup>2</sup> of the UCLL Backhaul Service and the wholesale markets for transmission capacity on each Secondary Link.<sup>3</sup>
3. Previous UCLL Backhaul Service section 30R reviews were published by the Commission on 30 April 2009<sup>4</sup> and 3 December 2009.<sup>5</sup>
4. On 30 March 2010<sup>6</sup>, the Commission issued a letter to interested parties consulting on the approach to defining the market and assessing competition for this third UCLL Backhaul competition review.<sup>7</sup>

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<sup>1</sup> Commerce Commission, *Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnect point)*, 27 June 2008 (**UCLL Backhaul STD**).

<sup>2</sup> A Primary Link refers to that part of the UCLL Backhaul Service between Telecom's local exchange in which the Access Seeker has co-located its equipment, and the Parent Point of Interconnection (**POI**) Site. A POI Site is a point in Telecom's network at which the Access Seeker may interconnect for the purposes of the UCLL Backhaul Service.

<sup>3</sup> A Secondary Link refers to that part of the UCLL Backhaul Service between the Parent POI Site and the ASNAPOI Handover Point. The ASNAPOI Handover Point means the Access Seeker's side of the OFDF in the ASNAPOI.

<sup>4</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, 30 April 2009 (**Decision 667**).

<sup>5</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom's unbundled copper local loop network backhaul (telephone exchange to interconnection point)*, 3 December 2009 (**Decision 686**).

<sup>6</sup> Commerce Commission, *Unbundled Copper Local Loop Backhaul and Unbundled Bitstream Access Backhaul Standard Terms Determinations – Consultation over the market definition and competition assessment*, 30 March 2010 (the **30 March 2010 letter**).

<sup>7</sup> The Commission received six submissions on the 30 March 2010 letter. Public versions of these submissions are available at <http://www.comcom.govt.nz/competition-reviews-for-uba-backhaul-and-ucll-backhaul-services/>.

5. On 2 June 2010, the Commission gave public notice<sup>8</sup> of its decision to commence a review under section 30R of the UCLL Backhaul STD (this **Review**). The public notice stated that:
- “In particular, the section 30R review will review the application of condition (b) of the UCLL Backhaul Service in relation to:
- Primary and Secondary Links assessed in the previous section 30R review of UCLL Backhaul competition (Decision 686); and
  - as part of the Commission’s letter to interested parties dated 2 June 2010, the Commission will ask parties to provide new information about Primary and Secondary Links as part of the section 30R review.”
6. On 2 June 2010 the Commission also wrote to interested parties<sup>9</sup>, noting that no changes to the framework used in the two previous reviews was required as all of the issues raised in submissions on the market definition and competition assessment as a result of the 30 March 2010 consultation letter were sufficiently addressed under that framework. In addition, the Commission noted that the pricing issue raised by Chorus was outside the scope of this Review.<sup>10</sup> The Commission also acknowledged that it may, in the future, be appropriate to carry out a further review of the framework for conducting UCLL Backhaul competition reviews when more information about the outcomes of the Government’s ultra fast broadband and regional fibre initiative projects are known.<sup>11</sup>
7. In previous reviews the Commission has supplied parties with a list of links that were to be assessed, and requested information from parties regarding the overlap of their network footprint and the listed links. In this Review, the Commission requested that parties provide specific reasons and supporting evidence as to why Telecom does not face limited, or is unlikely to face lessened, competition in relation to any currently regulated UCLL Backhaul links, or vice versa. A list of those links that had previously been assessed under Decision 686 was attached to the information request. Where parties had previously provided the Commission with information on their network, the Commission provided parties with this information and asked that they update it where necessary. Much of the information provided by fibre-based network providers as part of this Review was consistent with the information provided under the previous reviews.
8. Shortly after commencing this Review the Commission became aware that a number of links relating to exchanges that are forecast to be unbundled had not been listed in the Appendix of the 2 June 2010 letter which outlined the links assessed by the Commission in the previous review. The Commission was concerned that the focus of parties’ submissions might be influenced by this Appendix. In order to avoid this, on 8 July 2010<sup>12</sup> the Commission sought the

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<sup>8</sup> New Zealand Gazette, No. 61, 3 June 2010, page 1787.

<sup>9</sup> Commerce Commission, *Unbundled Copper Local Loop Backhaul (UCLL Backhaul) and Unbundled Bitstream Access Backhaul (UBA Backhaul) Standard Terms Determinations (STD) – request for information for review of links subject to the UCLL Backhaul and UBA STDs under section 30R of the Telecommunications Act 2001*, 2 June 2010 (the **2 June 2010 letter**).

<sup>10</sup> 2 June 2010 letter, page 2, para 9.

<sup>11</sup> 2 June 2010 letter, page 2, para 10.

<sup>12</sup> Commerce Commission, *Unbundled Copper Local Loop Backhaul (UCLL Backhaul) and Unbundled Bitstream Access Backhaul (UBA Backhaul) Standard Terms Determinations (STD) – request for information for review of links subject to the UCLL Backhaul and UBA STDs under section 30R of the Telecommunications Act 2001*, 8 July 2010 (the **8 July 2010 letter**).

views of interested parties on the classification of a mix of links including the newly forecast to be unbundled exchanges and additional links that were not forecast to be unbundled.<sup>13</sup> No information was received regarding these additional links.

9. Information in response to the 2 June 2010 letter was received from Telecom (Group), Telecom (Chorus), Vodafone, TelstraClear, FX Networks, Vector Communications, Network Tasman, Alpine Energy, CountiesPower, NorthPower and Enable Networks. This information has informed the Commission's views in this Decision.<sup>14</sup> All public information provided is available on the Commission's website.<sup>15</sup>
10. The Commission also contacted the following organisations, but received no information from them: CityLink, Orcon, Smartlinx3, Velocity Networks, Aurora Energy, Eastland Group, Electra, Electricity Ashburton, PowerNet, Unison and Waipa Networks.

### ***Draft UCLL Backhaul Decision Document***

11. On 6 August 2010 the Commission issued a draft UCLL Backhaul Decision Document under section 30R of the Act (the **Draft**). In the Draft the Commission adopted the approach used for assessing competition in the UCLL Backhaul market that been implemented in the previous two Reviews.<sup>16</sup> In summary, the Commission's conclusions were that:

- the competitive constraint posed by a 'near entrant' network should be considered on a local exchange by local exchange basis, based upon information about the proximity, the likely costs, the intentions of the network to connect to specific local exchanges, other market concerns and any other relevant evidence provided by interested parties, in order to determine if the network is likely to exert a competitive constraint;
- while TelstraClear provided confidential information outlining their involvement in wholesale backhaul markets, the Commission did not consider that the information was sufficient to change its view that TelstraClear, as a vertically integrated operator, is not currently a competitive constraint on Telecom in relation to the UCLL Backhaul market;
- two changes were needed to the competition status of previously assessed UCLL Backhaul Service Primary Links;
- Telecom faced limited competition on the 25 UCLL Backhaul Service Primary Links assessed for the first time in the Draft and, as a result, the regulated UCLL Backhaul Service should be available on all 25 of these links;<sup>17</sup>

<sup>13</sup> The additional links were added in order to protect the confidentiality of the forecast to be unbundled exchanges.

<sup>14</sup> The Commission also consulted the National Broadband Map (<http://www.broadbandmap.govt.nz/map>) to inform itself of potential market competitors.

<sup>15</sup> <http://www.comcom.govt.nz/competition-reviews-for-uba-backhaul-and-ucll-backhaul-services/>.

<sup>16</sup> Decisions 667 and 686

<sup>17</sup> A complete list of the Primary Links assessed under this draft Review Determination and the Commission's conclusions on their status is attached as Schedule 1.

- no changes to the competition status of previously assessed UCLL Backhaul Service Secondary Links were warranted; and
  - the Commission intended to complete a of review all UCLL Backhaul links annually taking into account competition developments, with the annual review being supplemented by competition reviews on a link-by-link basis (either in response to requests from interested parties, or on the Commission's own initiative).
12. The Commission invited interested parties to provide submissions on the Commission's conclusions, with a particular focus on links that they considered the Commission had incorrectly classified. In response to this request, the Commission received submissions from Telecom<sup>18</sup> and Chorus.<sup>19</sup>
13. As a result of the issues raised in submissions, the Commission has decided to simplify the approach used for assessing competition in the UCLL Backhaul market, as discussed in paragraphs 28 to 37 below.
14. The following section addresses the issues raised in submissions.

## **Submissions**

### **Non-provision of information from other networks**

15. Telecom<sup>20</sup> and Chorus<sup>21</sup> expressed concern at the number of operators who failed to provide relevant information to the Commission for the backhaul competition reviews. Chorus<sup>22</sup> also disagreed with the Commission's classification on six Primary Links. Having consulted the Broadband Map, Chorus identified six links where Enable Networks appear to have a presence within 1-2km of a Telecom exchange.
16. The Commission recognises the concern expressed by Telecom and Chorus. However, the Commission will not be using its compulsory provision of information powers to require providers who have not responded to the Commission's request. Rather, the Commission has decided in this revised draft UCLL Backhaul Review Decision Document (the **Revised Draft**), that the publicly available information provides sufficient information to inform the Commission's assessment of the constraint imposed by operators who have not responded to the Commission's information request

### **Confidentiality order**

17. Telecom submitted<sup>23</sup> that the absence of a confidentiality order<sup>24</sup> restricts the transparency of the Review and inhibits debate.

<sup>18</sup> Telecom, *Telecom response to the Commerce Commission draft review of unbundled local loop backhaul services*, 13 August 2010 (**Telecom Submission**).

<sup>19</sup> Chorus, *Draft Review of the Standard Terms Determination for the designated service Telecom's UCLL Network Backhaul*, 13 August 2010 (**Chorus Submission**).

<sup>20</sup> Telecom Submission, page 2.

<sup>21</sup> Chorus Submission, page 1, paragraph 3.

<sup>22</sup> *ibid*, page 1, paragraph 5.

<sup>23</sup> Telecom Submission, 13 August 2010, Page 2.

<sup>24</sup> A confidentiality order is issued under section 100 of the Commerce Act 1986 and section 15(i) of the Telecommunications Act 2001.

18. The Commission notes that the information provided by parties for this Review includes information detailing their intentions (or not) to connect to a specific exchange and the costs associated with connecting to the exchange. This is sensitive information that details the business plan of an operator and, in the context of the simplified assessment framework, release of this information pursuant to a confidentiality order is not required to enable an assessment of competition on Primary Links and Secondary Links.
19. Under the simplified assessment framework, as discussed in paragraphs 28 to 37 below, the Commission will, in most instances, only require information regarding the distance from which an operators network is from a Telecom exchange in order to make an assessment. If any party provides further confidential information, or requests the Commission take into account previously provided confidential information, in applying the simplified assessment framework, the Commission can not foresee parties providing meaningful submissions on this information and, therefore, does not consider a confidentiality order is required in this case.

### **TelstraClear are a constraint in the wholesale market**

20. Telecom<sup>25</sup> and Chorus<sup>26</sup> both submitted that TelstraClear is a competitive constraint in the wholesale UCLL Backhaul market. Telecom also noted that should a SSNIP (5-10% increase in price) test be applied, it would be clear that the presence of TelstraClear would constrain a hypothetical monopolist.
21. TelstraClear have unbundled a large number of exchanges<sup>27</sup> and for many of these exchanges TelstraClear are self-supplying UCLL Backhaul and have the infrastructure to compete with Telecom in providing alternative backhaul services, as outlined in their latest submission to the Commission:<sup>28</sup>

“To date TelstraClear has invested in 8,600 km of fibre across New Zealand. TelstraClear has significant capacity within its network, and it is economically rational for TelstraClear to provide wholesale access to third parties where surplus capacity exists, even if the wholesale customer has unbundled the local loop.”

22. Confidential information has been provided by TelstraClear outlining their involvement in wholesale backhaul markets. The Commission has assessed this information and does not consider it sufficient for TelstraClear to be considered a competitive constraint for the purposes of this review.
23. Without compelling evidence that TelstraClear is competing vigorously in the UCLL Backhaul market, the Commission considers that the conclusion reached in the UCLL Backhaul STD,<sup>29</sup> that TelstraClear’s vertically integrated structure

<sup>25</sup> Telecom Submission, 13 August 2010, page 2-3.

<sup>26</sup> Chorus Submission, page 1, paragraph 4.

<sup>27</sup> See: <http://www.telstraclear.co.nz/company-info/media-release-template.cfm?newsid=351&myear=2009>

<sup>28</sup> TelstraClear, *TelstraClear Submission on review of competition in the UCLL Backhaul and UBA Backhaul markets*, 5 July 2010, page 1, paragraph 7.

<sup>29</sup> UCLL Backhaul STD, pages 40-41, paras 153-157.

reduces its incentive to vigorously compete with Telecom in the UCLL Backhaul market, remains appropriate.<sup>30</sup>

### **Competition from TelstraClear at the retail level is a constraint at the wholesale level**

24. Telecom<sup>31</sup> also submitted that competition from TelstraClear at the retail level acts as a constraint at the wholesale level.
25. In principle competition from TelstraClear at the retail level may act as an indirect constraint on the UCLL Backhaul market. However, the Commission is of the view that, in practice, competition at the retail level in the broadband market involves a range of factors of which backhaul is one component. While TelstraClear's self-supply of backhaul services insulates it from potential increases in the wholesale price of backhaul services, the Commission does not consider this factor is significant enough to affect the conclusions in this review.

### **Telecom proposed alternative approach to the competition assessment**

26. Telecom<sup>32</sup> submitted that where TelstraClear is present, the Commission should presume the link to be competitive unless evidence is presented that there is limited competition given the potential "effect that the presence of regulation has on prospective entrants and therefore the long term competitiveness of the market".<sup>33</sup>
27. The Commission considers that for the reasons outlined in paragraphs 20 to 25 TelstraClear are not a competitive constraint on Telecom in the UCLL Backhaul market. Therefore, the Commission does not accept Telecom's proposed approach.

### **Reconsideration of the near entrant criteria**

28. The Commission, after considering the issues raised in submissions, the information collected from operators and the information available on the Broadband Map, considers that it is appropriate to alter the assessment criteria which determines where a near entrant is considered to be a constraint on Telecom.
29. The Commission considers that the change to the criteria would more appropriately reflect the extent to which Telecom is constrained in the UCLL Backhaul market, as well as simplify the assessment and allow for greater transparency of the decision made on each link.
30. In the Draft the criteria applied by the Commission were:<sup>34</sup>
- Telecom does not face limited competition on Primary Links or Secondary Links where there is one, or more, other wholesale-only backhaul provider;

<sup>30</sup> This assessment also means that the Commission does not consider that TelstraClear would constrain a hypothetical monopolist in the event a SSNIP test was applied.

<sup>31</sup> Telecom Submission, 13 August 2010, page 3.

<sup>32</sup> *ibid*, page 4.

<sup>33</sup> *ibid*, page 4.

<sup>34</sup> First Draft, 6 August 2010, Page 4.

- for Primary Links or Secondary Links where there is only Telecom or Telecom and one vertically-integrated competitor, the Commission considers that Telecom faces limited competition;
  - where a nearby fibre-based network is within 1km-2 km of a Telecom exchange, the Commission endeavoured to collect actual, or estimated, build costs of connecting to the exchange in order to assess the competitive constraint exerted by that network on Telecom (and other backhaul providers that are directly connected to that exchange);
  - where information was not provided/available regarding build costs, the Commission assumes an average build cost of \$150,000 per km;
  - the competitive constraint posed by ‘near entrant’ networks is considered on a local exchange by local exchange basis, based upon information about the proximity, the likely costs, the likely revenues and the intentions of the networks to connect to specific exchanges, in order to determine if the network is likely to exert a competitive constraint; and
  - for those markets found to be markets in which Telecom does not face limited competition, Telecom is not likely to face lessened competition.
31. In the UCLL Backhaul STD,<sup>35</sup> the Commission concluded that an operator with a network within 1km-2km of an exchange has incentives to offer UCLL Backhaul if required on the basis of the likely build costs balanced against the expected incremental revenues that could be earned from providing a UCLL Backhaul Service.
32. The Commission maintains the view that the assessment of whether an operator is within 1km-2km of an exchange remains an appropriate consideration when assessing the competitive constraint of a near entrant. The Commission has, however, decided to remove the cost to build criteria. From the information provided to the Commission it appears there is a relatively linear relationship between the cost to build and distance,<sup>36</sup> and specific cost information does not materially assist the analysis. This modified approach will also reduce the burden on operators for future information requests and simplify the assessment.
33. The Commission has also reconsidered the weight to be given to operators’ intentions to connect. Any operator that is within 1-2km of a Telecom exchange will be considered a competitive constraint on Telecom unless it has **publicly stated** that it does not intend to connect to the exchange. This change recognises that an operator who is close enough to an exchange to connect would be perceived by Telecom to be a competitive constraint and would likely affect the competitive dynamics of that market. A public statement that an operator does not intend to connect to an exchange is likely to remove this constraint, but a confidential statement provided to the Commission would not. In the absence of such public evidence, the Commission considers that Telecom does not face limited competition on Primary Links or Secondary Links where one or more, wholesale-only backhaul providers are considered to exert a competitive constraint in Telecom.
34. This approach also increases the transparency of the assessment, because the assessment of an individual link will, in most cases, be conducted using proximity

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<sup>35</sup> UCLL Backhaul STD, 27 June 2008, page 32, paragraph 109.

<sup>36</sup> Having accounted for the initial sunk costs.

information, which is often available in the public domain. The Broadband Map is one such public resource that can be used to identify the general proximity of a network to a Telecom exchange (as Chorus have done in their submission).<sup>37</sup>

35. The Commission will also consider any other information that alternative Backhaul providers wish to provide. The Commission will consider on a case-by-case basis whether information over which confidentiality has been claimed should be taken into consideration in the assessment.
36. The Commission will also monitor the UCLL Backhaul market and may reassess at any time the competition status of any link that has been classified as subject to not limited competition if it considers that the link may not be subject to competitive dynamics.
37. As a result of the changes outlined in paragraphs 31 to 35, in this Revised Draft, the Commission has reviewed the classification of all UCLL Backhaul links, applying the following criteria:
  - Telecom does not face limited competition on Primary Links or Secondary Links where there is one, or more, other wholesale-only backhaul providers;
  - for Primary Links or Secondary Links where there is only Telecom or Telecom and one, or more, vertically-integrated operators, the Commission considers that Telecom faces limited competition;
  - where a nearby fibre-based network is within 1km-2 km of a Telecom exchange, the network is considered a competitive constraint unless:
    - the operators has publicly stated that they do not intend to, and will not in the near future, offer services to or from that local exchange; or
    - the Commission considers, on a case-by-case basis, that additional information provided by a fibre-based network about a specific link should be taken into consideration;
  - for those markets found to be markets in which Telecom does not face limited competition, Telecom is not likely to face lessened competition.

### ***The Commission's Decision***

38. In completing this Review, the Commission has applied the “conditions” set out in sub-clause (b) for the UCLL Backhaul Service set out in Part 2 of Schedule 1 of the Act and the framework for assessing competition as outlined in paragraph 37 above.

### **Primary Links**

39. Following the analysis of all available data the Commission's preliminary view is that 58 links either require competition classification for the first time<sup>38</sup> or require a change in classification.

<sup>37</sup> Chorus Submission, page 1-2, paragraph 5.

<sup>38</sup> All Links that have been assessed for the first time in this Review are marked with an asterisk (\*).

40. In the section 30R review of the UBA Backhaul STD (the **UBA Backhaul Review**)<sup>39</sup> the Commission stated the preliminary view that competition would be assessed in the UBA Backhaul market by applying the framework set out in this Revised Draft.
41. The Commission also stated:<sup>40</sup>
- “Because UBA Backhaul Primary Links<sup>41</sup> largely follow the network topography of the comparable UCLL Backhaul Primary Links, the Commission’s preliminary view (as set out in the 2 June 2010 letter) was that where a UCLL Backhaul Link is considered to be one in which Telecom does not face limited, or is not likely to face lessened, competition, the corresponding UBA Backhaul link is also likely to be classified on the same basis, and vice versa.”
42. Where a UBA Backhaul Primary Link has been assessed as not being subject to limited competition, the Commission has assessed the comparable UCLL Backhaul Primary Link as not being subject to limited competition.<sup>42</sup>
43. The Commission’s preliminary view is that Telecom does not face limited, and is unlikely to face lessened, competition on 36 UCLL Backhaul Primary Links and these links, listed in Table 1, should not be subject to the terms and conditions of the UCLL Backhaul STD.

**Table 1: Links assessed as not being subject to limited competition**

Parent POI Site	Local Exchange	Parent POI Site	Local Exchange
Whangarei*	Hikurangi	<b>Palmerston North*</b>	<b>Pahiatua</b>
Whangarei	Kamo	<b>Porirua*</b>	<b>Paraparaumu</b>
Whangarei	Kensington	Porirua	Waikanae
Whangarei*	Ruakaka	Naenae	Petone
Torbay	Greenhithe	<b>Naenae*</b>	<b>Masterton</b>
<b>Torbay</b>	<b>Red Beach</b>	<b>Naenae*</b>	<b>Upper Hutt</b>
Henderson	Te Atatu	<b>Naenae*</b>	<b>Featherston</b>
Henderson	Whenuapai	<b>Nelson*</b>	<b>Motueka</b>
Papakura*	Bombay	Christchurch*	Beckenham
Hamilton*	Pokeno	Christchurch*	Belfast
Hamilton	Te Rapa	<b>Christchurch*</b>	<b>Culverden</b>
<b>Hamilton*</b>	<b>Turangi</b>	Christchurch*	Shirley
Tauranga*	Te Ranga	Christchurch	Kaiapoi
Tauranga*	Te Puke	Riccarton*	Canterbury Technology Park
<b>Rotorua*</b>	<b>Taupo</b>	Riccarton	Fendalton
<b>Napier*</b>	<b>Dannevirke</b>	Riccarton*	Islington
<b>Napier</b>	<b>Hastings</b>	Riccarton *	Middleton

<sup>39</sup> Commerce Commission, *Review of the Standard Terms Determination for the designated service Telecom’s unbundled bitstream access backhaul*, page 4, paragraphs 12-13.

<sup>40</sup> Ibid, page 3, paragraph 9.

<sup>41</sup> A Primary Link is a link between a FDS and its Parent POI.

<sup>42</sup> Where this occurs, the Link is identified in Table 1 with **Bold** typeface.

Napier	Marewa	Riccarton*	Hillmorton
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44. The Commission is of the preliminary view that the 52 links listed below in Table 2 are subject to limited competition and should be subject to the terms and conditions of the UCLL Backhaul STD.

**Table 2: Links assessed as being subject to limited competition**

Parent POI Site	Local Exchange	Parent POI Site	Local Exchange
<b>Kerikeri</b>	<b>Kaitaia</b>	Napier*	Wairoa
<b>Whangarei</b>	<b>Dargaville</b>	<b>New Plymouth</b>	<b>Hawera</b>
<b>Howick</b>	<b>Waiheke</b>	<b>Palmerston North</b>	<b>Ohakune</b>
<b>Hamilton</b>	<b>Coromandel</b>	<b>Palmerston North</b>	<b>Wanganui</b>
<b>Hamilton</b>	<b>Matamata</b>	<b>Greymouth</b>	<b>Westport</b>
<b>Hamilton</b>	<b>Tairua</b>	<b>Greymouth</b>	<b>Hokitika</b>
<b>Hamilton</b>	<b>Te Kauwhata</b>	<b>Christchurch</b>	<b>Kaikoura</b>
<b>Hamilton</b>	<b>Te Kuiti</b>	<b>Christchurch</b>	<b>Little River</b>
<b>Hamilton</b>	<b>Thames</b>	Christchurch*	Burwood
Hamilton*	Raglan	Christchurch*	Sumner
Tauranga*	Bethlehem	Riccarton	Darfield
Tauranga*	Papamoa	Riccarton*	Rangiora
Tauranga*	Te Puke	<b>Riccarton</b>	<b>Rolleston</b>
Tauranga*	Te Ranga	<b>Timaru</b>	<b>Kurow</b>
Tauranga*	Waihi Beach	<b>Timaru</b>	<b>Oamaru</b>
Tauranga*	Welcome Bay	<b>Cromwell</b>	<b>Alexandra</b>
Napier*	Bay View	<b>Cromwell</b>	<b>Ranfurly</b>
Napier*	Clive	<b>Cromwell</b>	<b>Roxburgh</b>
Napier*	Dannevirke	<b>Cromwell</b>	<b>Twizel</b>
Napier*	Flaxmere	<b>Cromwell</b>	<b>Wanaka</b>
Napier*	Gisborne	<b>Dunedin</b>	<b>Balclutha</b>
Napier*	Haumoana	<b>Dunedin</b>	<b>Palmerston</b>
Napier*	Matawai	<b>Invercargill</b>	<b>Gore</b>
Napier*	Otamauri	<b>Invercargill</b>	<b>Lumsden</b>
Napier*	Waimarama	<b>Invercargill</b>	<b>Te Anau</b>
Napier*	Waipukurau	<b>Invercargill</b>	<b>Tuatapere</b>

45. The classification of all UCLL Backhaul Service Primary Links is shown in Schedule 1.

## **Secondary Links**

46. In this Review, the Commission has applied the Framework above to all UCLL Backhaul Secondary Links.
47. The Commission's preliminary view is that there is no evidence of fibre network development, or other market developments, that justifies a change in competition status for any UCLL Backhaul Service Secondary Links covered by this Review. As a result, the Secondary Links on which the UCLL Backhaul Service must be supplied by Telecom at the request of the Access Seeker remains unchanged.
48. The Commission has modified the language describing the "key" in the diagrams that outline the UCLL Backhaul Secondary Links that are available under the UCLL Backhaul STD to clarify the interpretation of the diagrams.

## ***Additional matters considered in this Review***

49. In its letter of 30 March 2010, the Commission asked interested parties to comment on whether the Commission should, in addition to conducting a review of all links annually, undertake competition reviews on a link-by-link basis (either in response to requests from interested parties, or on the Commission's own initiative) of whether Telecom faces limited competition on a particular link, in light of competition developments. All submissions on this issue favoured an approach whereby additional reviews could occur on a link-by-link basis, in addition to the annual review.
50. The Commission's preliminary view remains that it is appropriate for a review of all UCLL Backhaul links to be conducted annually, taking into account competition developments, and for this Review to be supplemented where necessary by competition reviews on a link-by-link basis (either in response to requests from interested parties, or on the Commission's own initiative).
51. Further, the Commission's preliminary view is that the similarities between the UCLL Backhaul Review and the UBA Backhaul Review means that, in the future, a combined review process should be undertaken for both the UCLL Backhaul and the UBA Backhaul reviews.

## ***Conclusions of this Review***

52. The Commission's preliminary conclusions in this Revised Draft are summarised below:
  - i) the competitive constraint posed by a 'near entrant' network has been amended as outlined in paragraph 37;
  - ii) thirty-six UCLL Backhaul Primary Links are not subject to limited competition, inclusive of those links assessed in the Draft Review, and should not be subject to the terms and conditions of the UCLL Backhaul STD, as set out in paragraph 43;
  - iii) fifty-two UCLL Backhaul Primary Links are subject to limited competition, inclusive of those links assessed in the Draft Review, and should be subject to the terms and conditions of the UCLL Backhaul STD, as set out in paragraph 44;

- iv) no changes are needed to the competition status of previously assessed UCLL Backhaul Service Secondary Links as set out in paragraph 47;
- v) Appendix B in Schedule 5 “UCLL Backhaul POI Site Related Information” of the UCLL Backhaul STD is replaced with the new Appendix B attached as Schedule 2 to this Revised Draft. Schedule 2 specifies the Primary and Secondary Links on which Telecom will be required to supply the UCLL Backhaul Service on, at the request of an Access Seeker; and
- vi) the similarities between the UCLL Backhaul Review and the UBA Backhaul Review mean that, in the future, a combined review process should be undertaken for both the UCLL Backhaul and the UBA Backhaul reviews.

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**Consultation questions:**

53. Submissions are invited on the Commission's preliminary conclusions in paragraph 52 of this Revised Draft. In particular, interested parties are requested to submit on:

- the new framework used for assessing a near entrant in the UCLL Backhaul market set out on paragraph 37 on the classification of UCLL Backhaul Links under the simplified criteria, as set out in paragraphs 39 to 45; and
- whether it is appropriate, in the future, for combined review process to be undertaken for both the UCLL Backhaul and the UBA Backhaul reviews.

**DATED** at Wellington this xx September 2010

Dr Ross Patterson  
Telecommunications Commissioner  
Commerce Commission

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**Schedule 1 - List of Primary Links considered under this revised draft Review Determination, and the Commission's preliminary updated view on competition**

<b>Parent POI</b>	<b>Local Exchange</b>	<b>UCLL Assessment of competition status</b>
Kerikeri	Kaitaia	limited
Whangarei	Dargaville	limited
Whangarei	Hikurangi	Not limited
Whangarei	Kamo	Not limited
Whangarei	Kensington	Not limited
Whangarei	Ruakaka	Not limited
Torbay	Albany	Not limited
Torbay	Browns Bay	Not limited
Torbay	Forrest Hill	Not limited
Torbay	Red Beach	Not limited
Torbay	Greenhithe	Not limited
Torbay	Hibiscus Coast	limited
Torbay	Matakana	limited
Torbay	Warkworth	limited
Torbay	Wellsford	limited
Glenfield	Birkdale	Not limited
Glenfield	Birkenhead	Not limited
Glenfield	Devonport	Not limited
Glenfield	Takapuna	Not limited
Henderson	Glen Eden	Not limited
Henderson	Massey	Not limited
Henderson	Te Atatu	Not limited
Henderson	Titirangi	Not limited
Henderson	Waiatarua	limited
Henderson	Whenuapai	Not limited
Remuera	Ellerslie	Not limited
Remuera	Glendowie	Not limited
Remuera	St Heliers	Not limited
Remuera	Tamaki	Not limited
Airedale Street	Mount Eden	Not limited
Airedale Street	Ponsonby	Not limited
Auckland Central	Airedale Street	Not limited
Auckland Central	Mayoral Drive	Not limited
Mt Albert	Avondale	Not limited
Mt Albert	Blockhouse Bay	Not limited

<b>Parent POI</b>	<b>Local Exchange</b>	<b>UCLL Assessment of competition status</b>
Mt Albert	Mount Roskill	Not limited
Mt Albert	New Lynn	Not limited
Mt Albert	Three Kings	Not limited
Howick	Pakuranga	Not limited
Howick	Waiheke	limited
Howick	Whitford	limited
Papakura	Bombay	Not limited
Papakura	Manurewa	Not limited
Papakura	Pukekohe	Not limited
Papakura	Tuakau	Not limited
Papakura	Waiau Pa	limited
Papakura	Waiuku	limited
Papatoetoe	East Tamaki	Not limited
Papatoetoe	Mangere	Not limited
Papatoetoe	Manukau City	Not limited
Papatoetoe	Onehunga	Not limited
Papatoetoe	Otahuhu	Not limited
Papatoetoe	Otara	Not limited
Hamilton	Claudelands	Not limited
Hamilton	Frankton	Not limited
Hamilton	Hamilton East	Not limited
Hamilton	Melville	Not limited
Hamilton	Pokeno	Not limited
Hamilton	Te Rapa	Not limited
Hamilton	Turangi	Not limited
Hamilton	Brymer	limited
Hamilton	Cambridge	limited
Hamilton	Coromandel	limited
Hamilton	Flagstaff	limited
Hamilton	Matamata	limited
Hamilton	Raglan	limited
Hamilton	Tairua	limited
Hamilton	Te Awamutu	limited
Hamilton	Te Kauwhata	limited
Hamilton	Te Kuiti	limited
Hamilton	Thames	limited
Hamilton	Whatawhata	limited
Tauranga	Te Puke	Not limited
Tauranga	Te Ranga	Not limited

<b>Parent POI</b>	<b>Local Exchange</b>	<b>UCLL Assessment of competition status</b>
Tauranga	Bethlehem	limited
Tauranga	Maungatapu	limited
Tauranga	Mount Manganui	limited
Tauranga	Otumoetai	limited
Tauranga	Papamoa	limited
Tauranga	Waihi Beach	limited
Tauranga	Welcome Bay	limited
Tauranga	Whakatane	limited
Rotorua	Taupo	Not limited
Napier	Dannevirke	Not Limited
Napier	Hastings	Not limited
Napier	Marewa	Not limited
Napier	Bay View	limited
Napier	Clive	limited
Napier	Flaxmere	limited
Napier	Gisborne	limited
Napier	Haumoana	limited
Napier	Havelock North	limited
Napier	Matawai	limited
Napier	Otamauri	limited
Napier	Taradale	limited
Napier	Waimarama	limited
Napier	Waipukurau	limited
Napier	Wairoa	limited
New Plymouth	Hawera	limited
Palmerston North	Pahiatua	Not limited
Palmerston North	Bunnythorpe	limited
Palmerston North	Ohakune	limited
Palmerston North	Wanganui	limited
Porirua	Paraparaumu	Not limited
Porirua	Tawa	Not limited
Porirua	Waikanae	Not limited
Naenae	Featherston	Not limited
Naenae	Lower Hutt	Not limited
Naenae	Masterton	Not limited
Naenae	Upper Hutt	Not limited
Naenae	Petone	Not limited
Naenae	Eastbourne	limited
Wellington	Blenheim	Not limited

<b>Parent POI</b>	<b>Local Exchange</b>	<b>UCLL Assessment of competition status</b>
Wellington	Courtenay Place	Not limited
Wellington	Hataitai	Not limited
Wellington	Island Bay	Not limited
Wellington	Kelburn	Not limited
Wellington	Wellington South	Not limited
Wellington	Johnsonville	limited
Wellington	Khandallah	limited
Nelson	Motueka	Not limited
Nelson	Richmond	Not limited
Nelson	Stoke	Not limited
Nelson	Upper Moutere	limited
Greymouth	Westport	limited
Greymouth	Hokitika	limited
Riccarton	Avonhead	Not limited
Riccarton	Memorial Ave	Not limited
Riccarton	Canterbury Technology Park	Not limited
Riccarton	Fendalton	Not limited
Riccarton	Hillmorton	Not limited
Riccarton	Islington	Not limited
Riccarton	Middleton	Not limited
Riccarton	Darfield	limited
Riccarton	Lincoln	limited
Riccarton	Rangiora	limited
Riccarton	Rolleston	limited
Riccarton	Woodend	limited
Christchurch	Beckenham	Not limited
Christchurch	Belfast	Not limited
Christchurch	Culverdon	Not limited
Christchurch	Kaiapoi	Not limited
Christchurch	Linwood	Not limited
Christchurch	Papanui	Not limited
Christchurch	Shirley	Not limited
Christchurch	St Albans	Not limited
Christchurch	Ashburton	limited
Christchurch	Burwood	limited
Christchurch	Kaikoura	limited
Christchurch	Little River	limited
Christchurch	Mount Pleasant	limited

<b>Parent POI</b>	<b>Local Exchange</b>	<b>UCLL Assessment of competition status</b>
Christchurch	New Brighton	limited
Christchurch	Sumner	limited
Timaru	Kurow	limited
Timaru	Oamaru	limited
Cromwell	Alexandra	limited
Cromwell	Queenstown	limited
Cromwell	Ranfurlly	limited
Cromwell	Roxburgh	limited
Cromwell	Twizel	limited
Cromwell	Wanaka	limited
Dunedin	Balclutha	limited
Dunedin	Mosgiel	limited
Dunedin	Palmerston	limited
Dunedin	South Dunedin	limited
Invercargill	Gore	limited
Invercargill	Lumsden	limited
Invercargill	Te Anau	limited
Invercargill	Tuatapere	limited

## Schedule 2 – Replacement Appendix B for Schedule 5 “UCLL Backhaul POI Site Related Information” of the UCLL Backhaul STD

### Primary Links

Subject to the terms of the UCLL Backhaul Service Description, the table below shows the Primary Links on which Telecom must supply the UCLL Backhaul Service at the request of the Access Seeker:

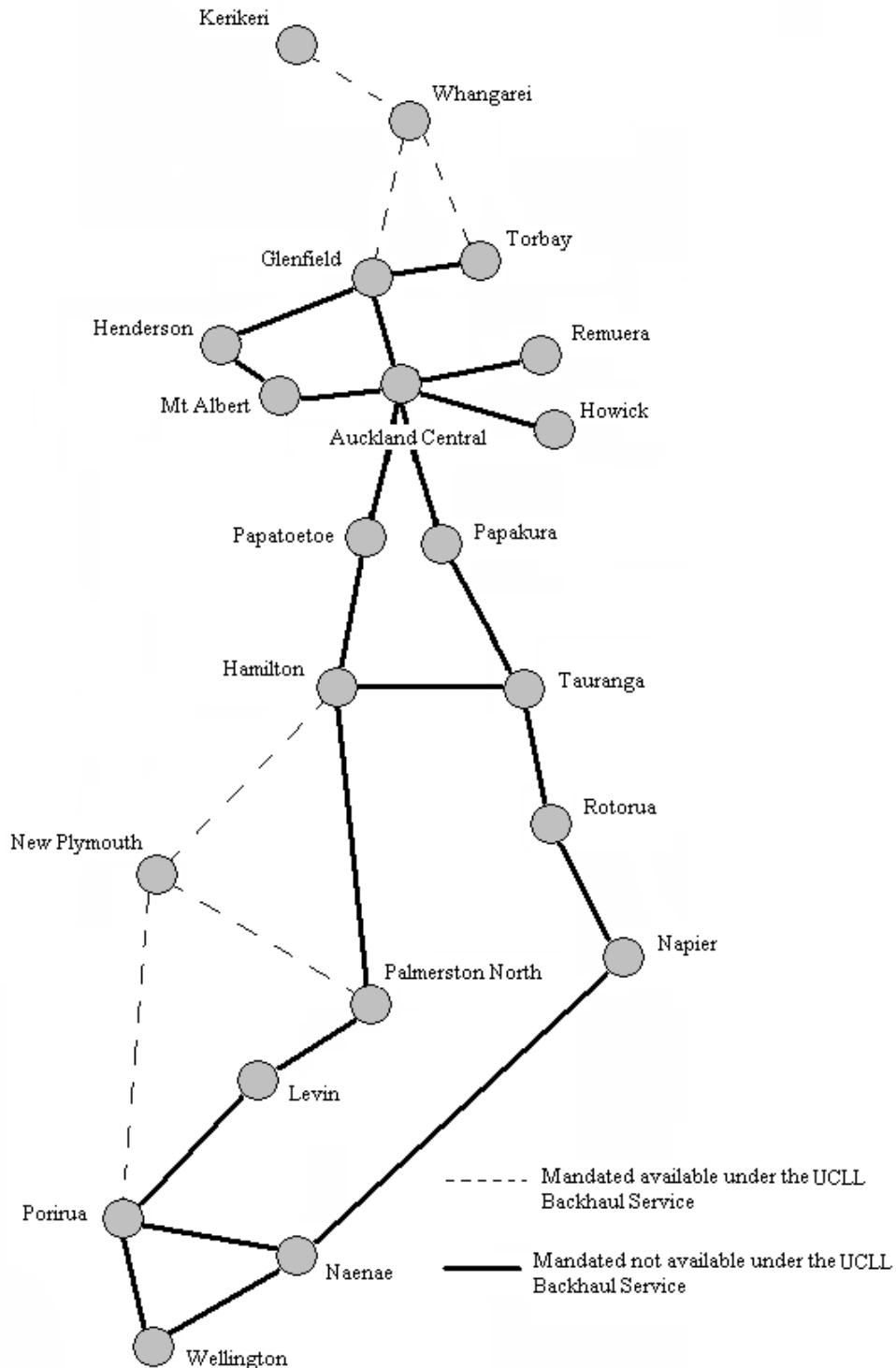
Parent POI	Local Exchange
Kerikeri	Kaitaia
Whangarei	Dargaville
Torbay	Hibiscus Coast
Torbay	Matakana
Torbay	Warkworth
Henderson	Waiatarua
Howick	Waiheke
Howick	Whitford
Papakura	Waiau Pa
Papakura	Waiuku
Hamilton	Brymer
Hamilton	Cambridge
Hamilton	Coromandel
Hamilton	Flagstaff
Hamilton	Matamata
Hamilton	Raglan
Hamilton	Tairua
Hamilton	Te Awamutu
Hamilton	Te Kauwhata
Hamilton	Te Kuiti
Hamilton	Thames
Hamilton	Whatawhata
Tauranga	Bethlehem
Tauranga	Maungatapu
Tauranga	Mount Manganui
Tauranga	Otumoetai
Tauranga	Papamoa
Tauranga	Waihi Beach
Tauranga	Welcome Bay
Tauranga	Whakatane
Napier	Bay View
Napier	Clive
Napier	Flaxmere
Napier	Gisborne
Napier	Haumoana
Napier	Havelock North
Napier	Matawai
Napier	Otamauri
Napier	Waimarama

<b>Parent POI</b>	<b>Local Exchange</b>
Napier	Waipukurau
Napier	Wairoa
New Plymouth	Hawera
Palmerston North	Bunnythorpe
Palmerston North	Ohakune
Palmerston North	Wanganui
Naenae	Eastbourne
Wellington	Johnsonville
Wellington	Khandallah
Nelson	Upper Moutere
Greymouth	Westport
Greymouth	Hokitika
Riccarton	Darfield
Riccarton	Lincoln
Riccarton	Rangiora
Riccarton	Rolleston
Riccarton	Woodend
Christchurch	Ashburton
Christchurch	Burwood
Christchurch	Kaikoura
Christchurch	Little River
Christchurch	Mount Pleasant
Christchurch	New Brighton
Christchurch	Sumner
Timaru	Kurow
Timaru	Oamaru
Cromwell	Alexandra
Cromwell	Queenstown
Cromwell	Ranfurly
Cromwell	Roxburgh
Cromwell	Twizel
Cromwell	Wanaka
Dunedin	Balclutha
Dunedin	Mosgiel
Dunedin	Palmerston
Dunedin	South Dunedin
Invercargill	Gore
Invercargill	Lumsden
Invercargill	Te Anau
Invercargill	Tuatapere

## Secondary Links

Subject to the terms of the UCLL Backhaul Service Description, the diagrams below show the Secondary Links where the UCLL Backhaul Service must be supplied by Telecom on the request of the Access Seeker and where Telecom is not required to supply the UCLL Backhaul Service:

### North Island:



South Island:

