

30 March 2011

Daniel Vincent
Analyst
Regulation Branch
Commerce Commission
WELLINGTON

<Email to: daniel.vincent@comcom.govt.nz>

Dear Daniel,

UBA Competition Review: TelstraClear comments on Telecom's additional submission

1. TelstraClear appreciates the opportunity to comment on Telecom's additional submission¹ on the UBA Competition Review. Telecom has proposed changes to the UBA price calculation to take account of the proposed deregulation of UBA in certain geographic markets. In particular, Telecom considers that the UBA price calculation should only reference Telecom Retail prices in markets in regulated Exchange Service Areas (ESAs).
2. TelstraClear notes that since Telecom's original submission was received, the Commission has launched a review of UBA pricing under Section 30R of the Telecommunications Act 2001. This review widens the scope of the existing UBA data cost review and covers a number of components of the UBA price calculation. TelstraClear considers that the price related issues raised by Telecom in its additional submission would more appropriately be dealt with as part of the wider UBA price review.
3. In any event, TelstraClear considers that the Commission should reject Telecom's proposed changes to the UBA price calculation for the reasons set out below and in the attached Report.²
4. In setting the regulated price for UBA, the Commission is limited to using the retail-minus pricing methodology. Telecom has the opportunity to increase the price of UBA by increasing its retail broadband prices. Retail-minus pricing will therefore not be effective in promoting competition where retail prices do not reflect the costs of an efficient operator.
5. If Telecom's proposed approach is adopted, there is a risk that it will increase the broadband prices in regulated ESAs in order to inflate the price of UBA. The Commission will not be able to prevent Telecom from doing this as there is no ability for it to set cost-oriented pricing under a pricing review. TelstraClear notes that this differs from the situation in the UK where Ofcom has proposed

¹ Telecom, *UBA Price Calculation: Request for Clarification*, 22 March 2011

² Network Strategies, *UBA Price calculation: comments on Telecom's proposed changes – Report for TelstraClear*, 28 March 2011

regulatory remedies that require wholesale prices in certain broadband markets to be cost oriented, or approaching cost-orientated rates. This is explained further in the attached Report.

6. Should you have any queries, please contact me on 04 920 3254 or at kate.saunders@telstraclear.co.nz

Yours sincerely

A handwritten signature in blue ink that reads "Kate Saunders". The signature is written in a cursive, flowing style.

Kate Saunders
Senior Regulatory Advisor
TelstraClear