



COMMERCE COMMISSION

**Draft Cost Calculation Determination for TSO Instrument for
Telecommunications Relay Services for the period between
1 July 2010 and 30 June 2011**

This Draft Cost Calculation Determination is required under section 94F of the Telecommunications Act 2001 and relates to the Telecommunications Service Obligations for Telecommunications Relay Services for the period 1 July 2010 to 30 June 2011.

The Commission:

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Date of Draft Determination:

30 September 2011

LIST OF DEFINED TERMS AND ABBREVIATIONS

Specified Amount	The total amount specified by the TSO Deed as payable by all liable persons to the TSO provider for each financial year of the TSO provider.
Sprint	Sprint International New Zealand Limited.
SQM	Service quality measure.
STS	Speech to speech service.
TRS	Telecommunications Relay Services.
TSO	Telecommunications Service Obligations.
TSO Deed	TSO Deed for TRS between the Crown and Sprint dated 9 July 2004, as amended from time to time.
TSO period	1 July 2010 to 30 June 2011, being the period to which this determination applies.
TSO Provider	Telecommunications service obligation provider (Sprint for TRS).
TRS Provider	Sprint, the telecommunications relay service provider

EXECUTIVE SUMMARY

1. The Telecommunications Act 2001 ('the Act') regulates the supply of telecommunications services in New Zealand.
2. Sprint provides relay services under the TSO Deed to meet the telephone communication needs of deaf, hearing and speech impaired people.
3. The TSO Deed is a TSO instrument under section 70 of the Act. As a result, Sprint is compensated for the provision of the relay services by the Crown.
4. This draft cost calculation determination determines the dollar amount of the TSO Deed's Specified Amount and material information relating to the calculation of that amount.
5. The Commission has determined that the cost of providing the TRS service under the TSO deed for the 2010/11 TSO period is \$2,209,190.40 excluding GST.

BACKGROUND

6. The Telecommunications Act 2001 ('the Act') regulates the supply of telecommunications services in New Zealand.
7. Under Part 3 of the Act, the Commission is required to produce cost calculation determinations for the TSO Deed.
8. This document is the draft TSO Cost Calculation Determination made under section 94F of Part 3 of the Act in respect of the TSO Deed for the TSO period.
9. The closing date for submissions on the draft TSO Cost Calculation Determination is 5pm, 14 October 2011. Submissions should be sent by email to: alby.rean@comcom.govt.nz.
10. This determination does not include any confidential material.

COST CALCULATION FOR THE TRS TSO

11. The current TSO Deed requires the TSO Provider to:
 - (a) provide a range of services including text-to-voice conversation, voice-to-text conversation, and speech-to-speech relay;
 - (b) meet the following service quality measures:
 - speed of answer for ordinary (non-emergency) calls; and
 - call congestion for ordinary (non-emergency) calls.
12. The TSO Deed for the TRS contains a Specified Amount, which is calculated as the sum of an *annual fixed charge* and an *annual variable charge* as set out in Schedule 2 of the TSO Deed.
13. The total amount payable to Sprint is the Specified Amount less any performance rebate calculated in accordance with the TSO Deed.
14. The *annual fixed charge* is set out in Table 1 and corresponds to the financial year of the TSO provider under the Act. Financial Year 7 coincides with the period for this determination which is from 1 July 2010 to 30 June 2011.

Table 1 Fixed Charges (GST exclusive)¹

	Financial Year 1	Financial Year 2	Financial Year 3	Financial Year 4	Financial Year 5	Financial Year 6	Financial Year 7
Fixed Charge	\$608,499	\$755,833	\$809,599	\$422,613	\$229,120	\$132,373	\$132,373

15. The *annual variable charge* for each financial year is computed by adding together the *traffic charge* and that of any other activity charge specified in Schedule 2 of the TSO Deed.
16. The *traffic charge* is derived by adding together the total call charges for each month of the financial year. The total call charge for a month is derived by multiplying the chargeable call volume (in whole minutes) for the month by the applicable per minute charge as set out in Table 2
17. The chargeable call volume is the aggregate of the duration in seconds (without any session level rounding) recorded for all relay calls in the month converted to whole minutes. The duration of a relay call is the relay session time measured in seconds from when the incoming call to the TRS system is answered until the incoming call is released by the TRS system
18. In November 2009 Addendum Five was added to the TSO TRS Deed. Addendum Five extended the duration of the Deed for 12 months (15 November 2009 to 15 November 2010) and adjusted the Traffic Charges for relay calls during the additional term.
19. In November 2010 a variation was agreed between the TSO parties to further extend the duration of the Deed to 30 June 2011 on the same charge rates². The subsequent Traffic Charges for Financial Year 7 are outlined below in Table 2.

Table 2: Financial Year 7 Traffic Charges (GST exclusive)³

Monthly Call Minute Volume	Charge Per Call Minute (1/7/2010 – 15/11/2010)	Charge Per Call Minute (16/11/2010 – 30/6/2011)
0 – 20,000	\$15.55	\$15.55
20,001 – 40,000	\$5.18	\$5.18
40,001 – 60,000	\$4.39	\$4.39
60,001 +	\$4.17	\$4.17

Notes:

- The charge per call minute applies only to relay calls.
- STS relay calls are relay calls for the purposes of this table.

20. The activity charges specified under Schedule 2 of the Deed are as follows:

¹ Schedule 2 of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 9 July 2004 and updated by the Schedule to Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 8 August 2011.

² These were clarified in the Schedule to Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 8 August 2011.

³ Addendum Five of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, November 2009, Schedule One.

- **Supplementary Outreach Charge**
A charge of up to \$150,000 excluding GST per annum may be applied for the supply by the TSO Provider of additional quantities of outreach services (above the base quantities supplied that are recovered through the annual fixed charge) to promote the TRS and support TRS users. The extent to which such additional quantities of service are supplied shall be determined at the sole discretion of the Crown.
- **Trial Charge**
A charge may be applied for any service trial that the Crown requests and where the Crown and the TRS Provider have agreed the charge.
- **Other Charges**
A charge may be applied for a service or activity that the Crown requests and where the Crown and the TRS Provider have agreed the charge.

21. There were no activity charges for this TSO period.
22. The Crown and Sprint came to an agreement for Sprint to provide a trial video relay service (VRS) in March 2009. This agreement was outlined in Addendum Four of the Telecommunications Service Obligations (TSO) Deed for Telecommunications Relay Services. This trial was funded directly by the Crown and is now a permanent service. This service is not subject to any assessment by the Commerce Commission.

Performance Rebate

23. The performance rebate is set as part of the TSO determination for the TRS and constitutes the entire amount of the reduction (if any) in the amount that the TSO provider would receive from the Crown and is referred to in section 94G(c) and section 94K(c) of the Act. The rebate takes account of whether the TSO provider's actual service performance complies with the TSO Deed.
24. The performance rebate is composed of two categories of compliance assessment: service availability and service quality. The performance rebate is computed by summing the applicable discounts, if any, for each category.⁴
25. Sprint has complied with both of the applicable service quality measures set out in the Deed. Therefore, performance rebates do not apply for the TSO period.
26. For the 2010/11 TSO period, the specified amount for the TSO Deed is the sum of the specified variable amounts in Table 3 and Table 4.
27. The specified Amount for the 2010/11 TSO period is \$2,209,190.40 excluding GST.

⁴ Telecommunications Service Obligations Deed for Telecommunications Relay Services, 9 July 2004, Schedule 2, Performance Rebate

Table 3: Specified Variable Amounts

Month	Call Volume (Minutes)	Traffic Charge Per Call Minute	Total Usage Charges
Jul 2010	36,580	\$5.18	\$189,484.40
Aug 2010	35,917	\$5.18	\$186,050.06
Sep 2010	37,098	\$5.18	\$192,167.64
Oct 2010	32,414	\$5.18	\$167,904.52
Nov 2010	33,427	\$5.18	\$173,151.86
Dec 2010	31,909	\$5.18	\$165,288.62
Jan 2011	30,542	\$5.18	\$158,207.56
Feb 2011	35,467	\$5.18	\$183,719.06
Mar 2011	35,480	\$5.18	\$183,786.40
Apr 2011	29,301	\$5.18	\$151,779.18
May 2011	31,801	\$5.18	\$164,729.18
Jun 2011	30,994	\$5.18	\$160,548.92
Total	400,930		\$2,076,817.40

Table 4: Specified Annual Fixed Charge⁵

Period	Fixed Charge
Financial Year 7	\$132,373

⁵ The schedule to Addendum Six of the Telecommunications Service Obligations Deed for Telecommunications Relay Services, 8 August 2011.

APPENDIX 1 – LEGAL FRAMEWORK

The Framework for the Determination

28. Part 3 of the Act facilitates the supply of certain telecommunications services to groups of end-users who may not otherwise be supplied those services on a commercial basis or at an affordable price.
29. Subpart 2 of Part 3 prescribes the annual procedures for determining the amounts payable by the Crown to the TSO provider in respect of each TSO instrument.
30. The Commission is required under section 93 to make an annual assessment of the TSO provider's compliance with the TSO Deed.
31. Section 94F of the Act requires the Commission to make reasonable efforts to do the following things, for a TSO provider under a TSO instrument, no later than 120 working days after the end of each financial year:
 - (a) prepare a draft TSO cost calculation determination;
 - (b) give public notice of that draft determination;
 - (c) include in the public notice the closing date for submissions, which must not be later than 20 working days after the date of giving public notice.
32. Section 94H of the Act provides as follows:

Requirements for draft TSO cost calculation determination

In preparing a draft TSO cost calculation determination of the matters referred to in section 94G(c), the Commission must consider the steps taken (if any) by the TSO provider to remedy any non-compliance by the TSO provider with the TSO instrument between the date the TSO provider was notified of the non-compliance under section 93b and the date that is 15 working days before public notice is given under section 94F(1)(b).

33. Section 94G sets out the matters that must be included in the Commission's draft TSO cost calculation determination. As the TSO Deed includes a Specified Amount, the draft determination need only include the following matters set out under section 94G(b) to (e):

Matters to be included in draft TSO cost calculation determination

A draft TSO cost calculation determination must include,—

- (b) if the TSO instrument contains a specified amount, the dollar amount of the specified amount and all material information that—
 - (i) relates to the calculation of that amount; and
 - (ii) would not, in the opinion of the Commission, be likely to unreasonably prejudice the commercial position of the TSO provider; and
- (c) the amount (if any) by which the total amount that the TSO provider would receive from the Crown in relation to the TSO instrument must be reduced because the TSO provider has not complied with the TSO instrument; and
- (d) the methodology applied by the Commission in preparing the determination; and
- (e) the reasons for the determination.