



Market Announcement

2 December 2014

Commerce Commission Media Release – regulated input charges

The Commerce Commission has today released the attached media release in relation to its draft Final Pricing Principal (FPP) determinations in relation to two regulated input products that retail service providers purchase from Chorus, the Unbundled Copper Local Loop (UCLL) product and the Unbundled Bitstream Access (UBA) product.

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Media Release

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Release No. 55

Commission releases draft decisions on prices of copper lines and broadband service for consultation

The Commerce Commission has today released draft decisions for consultation setting proposed prices that Chorus can charge for use of their local copper lines and broadband service. These are wholesale prices that Chorus charges retail telecommunications companies.

The proposed maximum monthly rental price that Chorus can charge for its unbundled copper local loop (UCLL) is \$28.22, an increase on the current price of \$23.52 that was established by international benchmarking at the end of 2012.

The additional proposed maximum monthly rental price for the unbundled bitstream access (UBA) service is \$10.17, a small decrease on the price of \$10.92 that was established by benchmarking at the end of 2013, and which came into force yesterday.

Today's total proposed wholesale price for the UBA service will therefore be \$38.39 per month, compared to the price that came into effect yesterday of \$34.44 per month. Prior to yesterday, \$44.98 per month was the price Chorus has been able to charge for the UBA service for the past few years.

To determine these proposed monthly rental prices, the Commission is required—under the legislation—to develop a “forward looking” cost model (called a TSLRIC model). This involves costing an efficient modern technology network that could deliver all the regulated UCLL and UBA services that Chorus currently provides.

TSLRIC modelling is used in a number of European countries to set regulated prices for copper-based telecommunications services. The Commission has used the highly regarded French

consultancy firm TERA to develop the model. TERA consultants have undertaken this type of modelling for a number of regulators and operators.

“We have taken an orthodox approach to TSLRIC modelling to promote as predictable a regulatory environment as possible,” said Telecommunications Commissioner Dr Stephen Gale.

“For the key input assumptions we have sought advice from independent sources, for example, Beca for civil infrastructure costs, Landcare Research and Corelogic for geospatial data, and Oxera Consulting and Dr Lally for the cost of capital,” said Dr Gale.

“The modelled price of UBA in this draft is very similar to the benchmark price but the modelled UCLL price is higher. There appear to be uniquely New Zealand factors, such as the dispersed nature of the rural network, that may differentiate our UCLL prices from the overseas benchmarks,” said Dr Gale.

“This is the first time we have undertaken such a comprehensive modelling exercise. We are therefore very interested in the industry’s views on the model we have built and the reasoning behind our modelling choices.”

The earliest that the final UBA price could apply from is 1 December 2014, which is when the benchmarked price came into effect. The Commission is seeking views from submitters to see if they think the final UCLL price should be backdated, and if so, what would be an appropriate date for this. A process paper will be published shortly about this issue.

The Commission is also seeking the views from the sector on whether the Commission should conduct a section 30R review of the standard terms determination for the UBA service and if so, what the review should look at. The Commission indicated in October that it would consider conducting this review when the statutory freeze ended yesterday on 1 December 2014. The Commission has also published a discussion paper about this issue today.

The Commission is welcoming submissions from interested parties on both draft decisions. Submissions are due by Friday 23 January 2015.

You can find the draft decisions and other papers on the Commission's website:

www.comcom.govt.nz/unbundled-copper-local-loop-and-unbundled-bitstream-access-services-final-pricing-principle

Background

What is UCLL?

UCLL stands for unbundled copper local loop and are the copper lines that Chorus owns and maintains. The copper network is the means for delivering telephone and internet services to businesses and households all over the country.

What is UBA?

UBA stands for unbundled bitstream access and this is the service that Chorus sells to retail telecommunications companies so that they can provide broadband services to businesses and consumers without replicating Chorus' electronics or software.

How do the prices for these services relate to each other?

The UCLL price is the base price for using Chorus' lines. The UBA price is for the use of Chorus' electronics and software that enables retail telecommunications companies to provide phone and broadband to their customers.

Any change in the UCLL price will flow through to the total prices of the UBA service (for broadband services), the unbundled copper low frequency (UCLF) service (for voice services), and the sub-loop service (SLU).

What is TSLRIC?

It stands for total service long-run incremental cost and is a type of modelling. This involves costing the most efficient modern technology network that could deliver all the regulated UCLL and UBA services.

What is a section 30R review?

Section 30R of the Telecommunications Act allows the Commission to commence a review at any time of any of the terms specified in a Standard Terms Determination (STD).

After review, the Commission may replace an STD, or vary, add, or delete any of its terms. The review can also address aspects of a designated access service not covered in an initial STD and update the terms of an STD to reflect regulatory or technological change.

The Commission's STD that regulates the price terms for the UCLL and UBA services and related documents can be found on the [Standard Terms Determinations](#) page.

The process under the Telecommunications Act

The processes for setting prices for UCLL and UBA services are set out in the Telecommunications Act 2011. The legislation sets out a two stage process. The first stage is to set prices by benchmarking against similar services in other countries. The benchmarking approach is called the initial pricing principle (IPP).

If any industry parties are not satisfied with the benchmarked costs, they can require the Commission to calculate the full cost of the services. This approach is called the final pricing principle (FPP). The FPP approach involves the Commission calculating the price and modelling the cost of a hypothetical network that uses modern technology, to efficiently deliver the regulated services.

Today's draft decision announcement is the latest step in the FPP process and will be followed by consultation with the industry before a final pricing decision is made in 2015.

The process to date

In 2012 and 2013, the Commission carried out the required benchmarking exercises to establish the maximum prices for UCLL and UBA. Following the announcement of the IPP pricing, Chorus New Zealand Ltd, Telecom New Zealand Ltd (now Spark), Vodafone NZ Ltd, CallPlus Ltd, Kordia Ltd and Orcon Ltd all asked the Commission to undertake an FPP for both the UCLL and UBA services.

In December 2013, we published a process and issues paper on UCLL which set out the framework for modelling the UCLL service, and a number of modelling issues. We also hosted an industry workshop on initial processes.

In February 2014, we published a process and consultation issues paper on UBA.

In March 2014, we published further consultation papers on topics including backdating and modern asset equivalents and a technical consultation paper on the cost of capital. We also hosted an industry workshop on TSLRIC.

In April 2014, we held a workshop with industry for our consultants from TERA to explain the modelling approach.

In June 2014, we published the TERA Literature Review and expert reports from Oxera, Dr Martin Lally on WACC and Professor Vogelsang on TSLRIC and promoting competition.

In July 2014, we published a consultation paper relating to the cost models that we would build for both the UCLL and UBA service.

In September 2014, we published an open letter on the process for next year and also a consultation paper on Service Transaction Charges.

Court process

Following the announcement of the IPP pricing, Chorus challenged the Commission's decision setting benchmarked cost-based prices for the UBA service through an application to the High Court.

In April 2014, the High Court dismissed Chorus' application and found in favour of the Commission. Chorus then appealed this decision to the Court of Appeal.

In September 2014, the Court of Appeal upheld the High Court's decision.

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Commission media releases can be viewed at:

www.comcom.govt.nz/the-commission/media-centre/media-releases/