

5 May 2005

TelstraClear Bitstream Draft Determination  
Commerce Commission  
PO Box 2351  
WELLINGTON

Email: [chris.abbott@comcom.govt.nz](mailto:chris.abbott@comcom.govt.nz)

Dear Sir/Madam

## **Re: Draft Determination on Bitstream**

Business New Zealand would like to take the opportunity to briefly comment on the draft determination by the Commerce Commission for bitstream access, involving Telecom providing an unlimited speed service at a flat price.

Business New Zealand is opposed to this recommendation for two reasons. We believe there are price discrimination issues involved that are associated with the freedom to choose between a variety of broadband plans. Also, we have concerns regarding the continued uptake of broadband services by small-medium sized businesses if the recommendation is accepted.

### **Price Discrimination and Freedom of Choice**

The notion of discrimination has a very negative connotation in modern day society, and is often thought of as relating to issues such as gender, race and age. However, price discrimination is a widespread practice that is generally accepted by businesses, consumers and governments.

The key to price discrimination is to utilize the fact that different consumers have a different willingness and ability to pay for goods and services.

There are numerous examples both throughout history and today of different forms of price discrimination that take place in various areas of the economy. Whether it is the price of a railway ticket for the same journey that is dependent on whether the trip is taken at peak time, to the price of an airline ticket that takes all passengers to the same destination but would cost more if business class travel is used, to the price of electricity being cheaper for off-peak times. All are forms of price discrimination that come about in everyday life and are considered standard practices. The telecommunications sector should be no different whereby diverse pricing structures are available for various users.

For broadband, there is the current ability to charge different prices for different plans, which are based on the ability to perform particular functions over the Internet, such as telephone calls or downloading films. The range of plans available provides consumers with the ability to select a plan that best meets their needs, ranging from a cheaper, low-spec plan through to a more expensive, high-spec one.

The fundamental issue of importance to Business New Zealand is the freedom of choice, which is a key determinant of any open market economy. By determining the wholesale price for bitstream at a single level, the ability to choose is effectively taken away from the consumer. While the recommendation by the Commerce Commission may benefit high-end customers, it may mean that the low-end and significantly larger number of customers may no longer be economic for Telecom, or indeed any ISPs purchasing the wholesale product, to serve, and may lead to retail prices collapsing to a single product at a single price, therefore reducing broadband options for customers.

### **Effect on Broadband Uptake Amongst Small Businesses**

One of Business New Zealand's key policy positions is to see an increase in New Zealand's uptake of broadband services. Currently, New Zealand ranks 22<sup>nd</sup> out of 31 OECD countries, and has remained around that level for some years. Although the uptake of broadband has continued to grow (particularly in recent times) we are concerned that the recommendation by the Commerce Commission will have an adverse effect on further uptake of broadband, particularly by small businesses.

Almost 87% of businesses have fewer than six employees, meaning New Zealand is primarily a country of small business owners. Considering the uptake of broadband comes from two primary sources (businesses and households), small businesses are a key area of ongoing uptake that must be considered. The recommendation by the Commerce Commission may lead to higher retail prices for entry level broadband, as those users who have minimum level broadband packages would most probably be required to pay a higher price for an enhanced package that they may not need.


For many small businesses, the use of basic applications is all that is required. Take for instance a small motel that would use broadband for standard tasks such as internet browsing, accepting email bookings, up keeping a simple website, or even just having the service available for customers. For many small businesses, the increase in price would not justify keeping the existing service, given the tight margins they often work with. This may lead to businesses considering other options such as dial-up access as a viable and cheaper alternative, which in our opinion would be a retrograde step for the continued growth in the uptake of broadband across the country.

### **Summary - Business New Zealand Recommendation**

Business New Zealand recommends that the draft determination by the Commerce Commission for Telecom to provide an unlimited speed service at a single price should be changed to encourage a range of services and prices to be available at both wholesale and retail.

Again, we would like to thank you for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to be 'PO'Reilly', with a long horizontal stroke extending to the right.

Phil O'Reilly  
**Chief Executive**  
**Business New Zealand**