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16 October 2014

## **Commerce Commission suspends regulated UBA investigation**

Chorus has today been notified that the Commerce Commission is suspending its investigation into Chorus' proposed changes to the regulated Unbundled Bitstream Access (UBA) service.

The Commission had commenced an investigation following a complaint about some of the proposed changes from Spark. Chorus has since advised the industry that it is putting traffic management proposals on hold and Spark has put its complaint on hold.

"Chorus welcomes the notification from the Commerce Commission that it is stopping its investigation," said Vanessa Oakley, Chorus General Counsel. "We have always sought to work constructively with the industry, and this has included extensive consultation with customers and the Commission on a number of proposals in advance of making any changes".

Chorus' view is it is currently over-delivering on its regulatory requirements today and looks forward to greater clarity on its regulatory obligations as part of the final pricing principle review. Chorus remains committed to developing commercial products that sit alongside regulated services and meet emerging industry and end user demands.

A copy of the Commission's release is attached.

## **ENDS**

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## Media Release

Issued 16 October 2014

Release No. 39

### **Commerce Commission suspends investigation into proposed changes to Chorus' regulated UBA service**

The Commerce Commission's investigation into Chorus' proposed changes to the regulated unbundled bitstream access (UBA) service have been put on hold. This decision follows an announcement from Chorus that it has put its proposals to constrain the service on hold.

In July 2014, the Commission received a complaint from Telecom (now Spark) about Chorus' proposed constraints to the regulated UBA service. CallPlus also raised concerns over the legality of Chorus' proposal in its submission.

We subsequently began an investigation under section 156O of the Telecommunications Act to determine whether Chorus' proposed changes to the regulated service were likely to breach the UBA Standard Terms Determination (STD).

On 4 September 2014, the Commission released an independent legal opinion questioning the legality of Chorus' proposals.

In a customer dialogue session on 1 October 2014, Chorus announced a number of changes to its proposals. In particular, the changes to the regulated UBA service have been put on hold, including any constraints on the regulated service and the withdrawal of the current regulated VDSL service.

Yesterday, Spark advised it wished to put its complaint on hold.

"We consider it important that the regulated services be properly maintained and not actively eroded," said Telecommunications Commissioner, Dr Stephen Gale. "Chorus' decision to put on hold its plans to constrain the regulated service appears to be a good outcome for the industry and end-users."

“Submissions from the industry have highlighted the need to provide greater clarity on Chorus’ obligations under the UBA STD given changes to the industry structure since it was first drafted,” said Dr Gale. “We will give further thought to conducting a section 30R review of the UBA STD, once the statutory freeze on doing so expires on 1 December 2014.”

## **Background**

Unbundled bitstream access is a service that allows retail telecommunications companies to supply broadband (internet) services over the copper network without the need to install their own equipment in the exchange.

The UBA service is regulated under the Telecommunications Act 2001 (Act).

The current retail-minus regulated UBA price is \$44.98 per line per month. This will drop to \$34.44 per line per month from 1 December 2014 when the price becomes cost-based. The Commission is also undertaking a further price review of the regulated UBA service, with a final determination due in April 2015.

Chorus is able to offer commercial UBA services at different prices to the regulated UBA service. However, before doing so, Chorus must provide the Commission with notice under clause 10 of the Standard Terms Determination for Chorus’ Unbundled Bitstream Access Service.

The Commission must then assess whether the proposed commercial UBA services are different to the regulated UBA service; that is, that the commercial UBA services fall outside of the UBA Service Description outlined in Schedule 1 of the UBA STD.

The last time the Commission assessed a New UBA Variant was in 2010 when Telecom proposed the Wholesale VDSL2 Service. Chorus subsequently began providing the VDSL service as part of the regulated service in 2013.

On 14 May 2014, Chorus gave the Commission notice of its proposed commercial UBA variants, Boost HD and Boost VDSL.

On 30 May 2014, the Commission released a paper outlining its process for assessing the commercial UBA variants.

On the same day, Chorus announced its plans to withdraw the current VDSL service, subject to consultation.

On 20 June 2014, the Commission held a workshop with industry participants.

On 27 June 2014, the Commission updated its process for assessing Chorus' proposal, including that it would be publishing an issues paper seeking submissions from interested parties.

On 7 July 2014, the Commission published an issues paper seeking to clarify Chorus' proposed changes and to obtain the views of industry participants.

On 10 July 2014, Chorus announced a number of changes to its proposed commercial UBA services.

As a result of these changes, on 15 July 2014, the Commission granted an extension for submissions on the issues paper following a request from a party.

On 18 July 2014, the Commission received a complaint from Telecom (now Spark) about the proposed changes to the UBA service. CallPlus also raised concerns over the legality of Chorus' proposal. On 22 July 2014, the Commission signalled our intent to launch an investigation into Spark's complaint.

On 14 August 2014, Chorus provided the Commission with notice that it had further amended its proposals.

On 4 September 2014, the Commission released a legal opinion regarding the legality of the proposal.

On 19 September 2014, the Commission received submissions on our legal opinion.

On 3 October 2014, it received cross-submissions on the legal opinion, in which Chorus announced that it has put on hold plans to change the regulated UBA service and also put on hold one of its proposed commercial UBA services.

On 15 October 2014, the Commission received notification from Spark advising that it wished to suspend its complaint about the proposed changes.

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