

Stephen Gale
Telecommunications Commissioner
Commerce Commission
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By email: stephen.gale@comcom.govt.nz

29 October 2014

Dear Stephen

NEW UBA VARIANTS

- 1 We are writing to update the Commission on the proposed commercial offering of new Unbundled Bitstream Access (*UBA*) service variants.
- 2 On 1 October 2014, Chorus held a customer Dialogue session at which we announced the proposal that Boost HD be put on hold, that we still intend to launch Boost VDSL on 1 December 2014, that Basic VDSL would continue to be available and that we are not proceeding with its proposals regarding the Regulated UBA Service (and that this will not be revisited before April 2015).
- 3 This update is provided further to the Notice provided to the Commission under clause 10 of the UBA STD General Terms provided on 14 May 2014 (the *Notice*) and is consistent with the proposal announced at the 1 October Dialogue session.

Background

- 4 Chorus gave notice to the Commission of two new proposed UBA variants – Boost HD and Boost VDSL – on 14 May 2014, as required by clause 10 of the UBA General Terms. It was proposed that products be launched on 1 September 2014 enabling sufficient time for consultation with customers and for Commission consideration. Previous discussions had taken place with the Commission and RSPs about the scope and approach to these commercial UBA offerings prior to formal consultation. Chorus also launched a 60 day consultation period with customers upon giving the Notice, which included industry workshops on 29 May 2014 and 20 June 2014. Dialogue packs were presented to customers on 29 May 2014, 10 July 2014 and, most recently, on 1 October 2014.
- 5 On 28 July 2014, Chorus wrote to the Commission regarding the status of the proposed UBA variants subject to the Notice. Updated service descriptions for the Boost service and the Commercial Handover Connection service were provided to the Commission in August 2014 and posted on the Commission’s website on 2 September 2014, with the Notice amended accordingly.
- 6 Parallel work was necessary to enable feedback and transparency and so the industry could finalise matters to ultimately introduce products for consumers in a timely manner. Larger customers who directly involved themselves in the Commission’s processes had a range of differing views. Some smaller customers signed letters of intent to take the products.

Updated confirmed proposal for new UBA variants

- 7 Following further consultation, and having regard to the increased uncertainties on process and substantive views about the regulated UBA STD interpretation, the passing of the 1 September 2014 proposed launch date, and increased uncertainty as to when enhanced commercial products might be supported as materially differentiated choices available alongside the regulated UBA STD, Chorus now wishes to provide a further update of the proposed commercial offering subject to the Notice.
- 8 The key features of Chorus' revised proposal is as follows:
- 8.1 The "Boost VDSL" service will be launched on 1 December 2014. The price for Boost VDSL will be a fixed price of \$44.99 until 31 December 2015, with no new connection or on-premises wiring charges.
- 8.2 At launch, the quality of service for Boost VDSL will be "Best Efforts", the same as the UBA STD. "Prioritised best efforts", discussed at a Commission workshop, is not being proceeded with at this time.
- 8.3 The "Boost HD" service will not be launched at this time, but provision has been made for it to be potentially launched at a later date in the commercial terms. In the event that Chorus elects to make such a service available, Chorus will provide a further notice of 20 working days in accordance with clause 10 of the UBA General Terms.
- 9 Copies of the draft service descriptions for the Boost VDSL service and the Commercial Handover Connection service are attached to this letter (clean and marked up). Also attached to this letter is a summary table of the key differences between these service descriptions and those previously provided to the Commission in August this year. Copies of the balance of contractual documents relevant to the Boost VDSL proposal (CSA General Terms, special terms, price lists for Boost VDSL and handovers plus service description, special terms and price list for the Tail Extension Service are available on Chorus' website.¹
- 10 The Notice is amended to incorporate these changes, with all other features of the new UBA service variants as described in the Notice.

Material differentiation from the regulated service

- 11 Chorus' view is that Boost VDSL is differentiated to a material extent from the regulated UBA service offering, for the reasons set out in the Notice (see, in particular, Appendix 2).
- 12 In summary, the core features of Boost VDSL that differentiate it from the regulated UBA service provided under the STD are:
- 12.1 a service commitment, on a Best Efforts basis, of a minimum downstream / upstream line speed of 12 / 1 Mbps and a minimum downstream average throughput of 10 Mbps during a 15 minute period;

¹ <http://customer.chorus.co.nz/agreements/chorus-service-agreement/chorus-services-agreement> (a customer log in is required to access this site. We understand that the Commission has a log in, but please let us know if you would like us to send you copies of these documents).

- 12.2 Line Profile Optimisation, an enhanced network feature which will improve individual line performance through optimising the line for speed and stability;
- 12.3 fibre-ready connections, with the installation of Boost VDSL including, if required, the installation of a VDSL2 standard splitter and wiring at the End User Premises, Service Provider Premises or the NBAP beyond the ETP to a single jack point; and
- 12.4 no real time grade class of service, which is a feature of the Enhanced UBA service provided under the UBA STD.

Next steps

- 13 We look forward to any further engagement that the Commission would like to have on the new UBA variant – Boost VDSL.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Anna Moodie', with a long horizontal flourish extending to the right.

Anna Moodie
Assistant General Counsel, Regulatory & Competition Policy