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## **STOCK EXCHANGE ANNOUNCEMENT**

22 July 2014

### **Commission assessment of Regulated Unbundled Bitstream Access proposals**

The Commerce Commission has today announced, in response to a complaint from Telecom, that it will investigate whether proposed changes to the regulated unbundled bitstream access service (UBA) would be an enforceable breach under the Telecommunications Act.

This investigation will proceed in parallel with the current:

- Commission process considering Chorus' new Boost HD and Boost VDSL wholesale service proposals which is currently in a submission process; and
- Consultation with retail service providers (RSPs).

Chorus will continue to engage with all processes and consultations.

Chorus is currently over-delivering on its regulatory requirements today, and will continue to do so. Chorus is proposing traffic management on the best efforts UBA service which will ensure that the service remains fit for purpose at around today's observed levels.

Chorus also believes that its proposed new commercial "Boost" services offer distinct new capability and services that facilitate RSP competition and innovation, and successful implementation of these services is in the interests of end users.

This additional process and further delays to the timetable may delay these services being available in the market.

**ENDS**

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## Media Release

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Release No. 8

### **Commission to investigate complaint about Chorus' proposed changes to regulated broadband**

The Commerce Commission will investigate a complaint that Chorus' proposed changes to the regulated unbundled bitstream access (UBA) service are an enforceable breach under the Telecommunications Act.

The Commission received a complaint from Telecom about the changes to the (UBA) service, as part of the company's submission on a new commercial broadband service that Chorus has developed to compete with UBA. CallPlus has also raised concerns over the legality of Chorus' proposal in its submission.

"The Commission is very supportive of innovation within the industry and of commercial services that compete with regulated services, especially when it leads to improved services for consumers. However, regulated services must be properly maintained and not be eroded," Telecommunications Commissioner, Dr Stephen Gale said.

The investigation of the complaint will be undertaken under section 156o of the Telecommunications Act which requires the Commission to consider any complaints received. The investigation will determine whether Chorus' proposed changes are likely to breach the UBA Standard Terms Determination.

Chorus initially advised the Commission of its proposal in May offering two new unregulated UBA services: Boost HD and Boost VDSL, withdrawing the regulated VDSL service and new bandwidth management settings for the regulated UBA service. On July 10 Chorus made a number of substantive amendments to its proposal.

The Commission is required to assess whether the proposed new unregulated UBA services are materially different from the regulated UBA service and can be priced separately. This assessment

began in late May. The changes made by Chorus earlier this month are likely to have an impact on the timeline for the Commission's assessment.

Submissions received on the issues paper will be released today on the Commission's website. The deadline for cross-submissions will now be extended until Friday 1 August to allow the industry additional time to fully evaluate the changes Chorus has made. The full timeline for the assessment of proposed variants will be updated in the near future.

The assessment of Chorus' new unregulated UBA services proposal will run in parallel to the section 156o investigation.

### **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 (UBA STD).

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.

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