



**Section 20: Application for Determination for
Designated Access Service**

25 May 2009

Public Version

I Summary

1. 2degrees wishes to offer local telecommunications services to customers over its existing mobile telecommunications network infrastructure. 2degrees intends to compete in the local services market by enabling 2degrees local customers to make and receive local calls from their mobile handset using a local number.
2. After making every reasonable effort, 2degrees has been unable to reach agreement with Telecom on local service interconnection. Therefore, 2degrees seeks a determination by the Commission that Telecom be required to provide interconnection with its fixed PSTN for calls to and from 2degrees' local numbers.
3. On 28 September 2006 the Commission made a Final Determination on the Vodafone application for determination for 'Interconnection with Telecom's fixed PSTN'
4. The Commission determined that:

Vodafone is not required to operate a fixed PSTN in order to gain access to the interconnection service.

A local voice call is a voice call where the number from which the call originates and the number of the intended recipient of the call are local numbers that have been allocated to the same LICA.

It is not necessary to further define the features of a local voice call beyond the link to a local number. In particular, the interconnection service should not be defined with reference to the characteristics of the proposed Vodafone retail services.

The Commission is not required to consider what happens to a local call from a Telecom customer to a Vodafone local number after the call has been handed over to Vodafone.

Local voice calls between the Parties shall be exchanged at a price of zero in accordance with the pure bill and keep pricing method. This pricing method should enhance efficiency and promote competition for the long term benefit of end users.

Telecom shall not charge its customers a higher price for local voice calls to Vodafone local numbers, relative to the price charged for other local voice calls made by its customers.

5. 2degrees has attempted to negotiate exactly the same terms with Telecom that the Commission Determined above.
6. Telecom has continually refused to agree to this, despite 2degrees making every reasonable effort to engage with them.
7. The main remaining issues between 2degrees and Telecom are:

Geographic area of the “Homezone”

- a. Telecom is seeking to restrict the geographic size of any free calling “homezone” that 2degrees offers to its retail customers. Telecom has provided only one written discussion paper to 2degrees. This suggested that a radius no greater than 1 kilometer around the end users “notified premises” is appropriate.
- b. 2degrees is of the view that the interconnection service should not be defined with reference to the characteristics of 2degrees proposed retail service. A local voice call is a voice call where the number from which the call originates and the number of the intended recipient of the call are local numbers that have been allocated to the same LICA. No further definition or restriction is necessary.

Non-discrimination of retail pricing

- a. 2degrees is of the view that Telecom should not be allowed to impose any charge on its retail customers that would discriminate between calls to Telecom local numbers and calls to 2degrees local numbers.
- b. Despite repeated requests, Telecom has never formally responded to this request for non-discrimination of retail pricing.

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III The Person Giving Notice

8. The person giving this notice is Bill McCabe, Chief Commercial Officer, on behalf of Two Degrees Mobile Limited (**2degrees**).
Contact details are as follows:

Address: 131 Khyber Pass Road, Newmarket, Auckland.

Phone: 022 211 1222 or (09) 919 7000

Facsimile: (09) 919 7001

Email: bill.mccabe@2degreesmobile.co.nz

9. 2degrees requests that all correspondence and notices in respect of this Application be copied to Tim Matthews, General Counsel at 2degrees:

Address: Level 9, 35-37 Victoria Street, Wellington

Phone: 022 225 5846 or (04) 894 3140

Facsimile: (04) 894 2913

Email: tim.matthews@2degreesmobile.co.nz

IV Parties to Determination

10. The parties to the determination are:
 - 2degrees; and
 - Telecom New Zealand Limited, Telecom Networks House, 68-86 Jervois Quay, Wellington (**Telecom**).
11. 2degrees and Telecom are both telecommunications network operators and service providers.
12. 2degrees is a mobile telecommunications company in New Zealand.
13. Telecom operates New Zealand's major fixed PSTN. It also operates a mobile network.

V Service Description

14. 2degrees seeks a determination requiring the supply to 2degrees of a designated access service under Part 2 of the Telecommunications Act 2001 (the **Act**), being the service described in sub-part 1 of Part 2 of Schedule 1 of the Act as “Interconnection with Telecom’s fixed PSTN”. The service description for this service under the Act is “origination and termination (and their associated functions) of voice and data calls (including dial-up internet calls) on Telecom’s fixed PSTN”.
15. The service sought by 2degrees only applies to voice calls to and from 2degrees’ local numbers. 2degrees’ local numbers are currently those seven digit numbers allocated (or to be allocated) by 2degrees to its local customers.
16. The service sought by 2degrees does not apply to calls to and from 2degrees’ mobile numbers. Telecom and 2degrees have a contract covering the terms that apply to calls to and from 2degrees’ mobile numbers. Whilst we don’t agree on the terms of this contract (most notably the Mobile Termination Rate, Minute + Second call rounding and Telecom charging 24 cents per minute to terminate many call types onto its mobile network (instead of the regulated 15 cents rate)), that dispute is separate and distinct from this application.
17. The service sought by 2degrees in this Application shall be referred to as the **Requested Service**.

2degrees’ local service requires local interconnection with Telecom’s fixed PSTN

18. For 2degrees to enter the local services market, 2degrees requires interconnection with Telecom’s fixed PSTN to enable both:
 - 2degrees local customers to call Telecom local customers on Telecom’s fixed PSTN; and
 - 2degrees local customers to be called by Telecom local customers on Telecom’s fixed PSTN.
19. We wish to ensure that our interconnection charges to Telecom for calls to our local customers are the same as Telecom’s regulated interconnection

charges to 2degrees for calls to Telecom's local customers. We are proposing reciprocal pure bill and keep pricing for both termination of calls from 2degrees local numbers to Telecom's local numbers, and for calls from Telecom's local numbers to 2degrees local numbers.

2degrees local customers need to be able to call Telecom local Customers

20. Where 2degrees local customers originate a call from their local number to a customer on Telecom's fixed PSTN, that call needs to terminate on Telecom's fixed PSTN.
21. Termination on Telecom's fixed PSTN is a regulated service under the Act and a service that Telecom has been unwilling to provide to 2degrees for calls originating from 2degrees local numbers on the 2degrees mobile PSTN.
22. 2degrees will allow end-users of 2degrees local service to elect to have their local number as the A-number for outgoing calls where they are physically located within a defined geographical Homezone. 2degrees therefore requires that the determination for the Requested Service include terms for the termination of calls from 2degrees local numbers to Telecom's fixed PSTN.
23. For calls originated by the 2degrees local customer from a location other than within that defined geographic zone, the A-number will always be their mobile number. For these calls 2degrees will pay the interconnection charges for termination on Telecom's fixed PSTN specified in 2degrees existing interconnection agreement with Telecom.

2degrees local customers need to be able to be called by Telecom local Customers

24. Where Telecom local customers originate a call on Telecom's fixed PSTN to a 2degrees local number, that call needs to be handed over to 2degrees at a technically feasible point of interconnection so that 2degrees can complete the call. A hand-over obligation is a standard feature of local service interconnection between fixed networks. 2degrees therefore seeks a determination that includes such an obligation on Telecom.
25. The Commission recognised in the Draft Determination on the TelstraClear interconnection application the fundamental nature of hand-over as an aspect of interconnection between networks.
26. The parties to that application subsequently agreed to include a provision in their terms which effectively provided for this hand-over obligation, so the Commission was not required to include this term in the final determination.

27. A hand-over obligation is also consistent with industry practice. For example, in Telecom's "Standard Reference Offer", the services that each carrier must make available and provide to the other include:
- "handing over or, where a free circuit is not available in the other carrier's Network, offering to hand over to the other carrier any Intra-LICA Call or Toll Bypass Call".
28. 2degrees can not see any detriment to requiring Telecom to comply with such a hand-over obligation in relation to interconnection with a mobile network, as compared with interconnection with a fixed network.
29. If Telecom were free to refuse to handover calls to interconnected parties it could entirely frustrate the regulatory system as regards fixed interconnection. It could agree to provide termination to an access seeker on regulated terms, but decide not to hand-over calls for termination on the access seeker's network. This would mean that the access seeker's customers could call Telecom customers, but calls in the other direction would not be completed.

Reciprocity

30. While 2degrees has the ability to seek regulated interconnection with Telecom's fixed PSTN, the Act does not provide Telecom the ability to similarly seek regulated interconnection with 2degrees' network to complete both sides of the local service interconnection. There is no requirement on an access seeker for interconnection with Telecom's fixed PSTN to operate a fixed PSTN, but Telecom only has the reciprocal right to seek regulated interconnection with other fixed PSTN networks.
31. Because 2degrees neither has, nor intends to operate, a fixed PSTN, 2degrees suggests that interconnection between 2degrees' mobile PSTN and Telecom's fixed PSTN can be made analogous to interconnection between two fixed networks by including a condition in the determination requiring reciprocal terms for the termination of local calls on 2degrees' PSTN. The condition would require that:
- 2degrees offer Telecom terms that are reciprocal to the terms on which the Requested Service is to be provided, in respect of calls to 2degrees' local numbers; and
 - Telecom acquires a termination service from 2degrees on such reciprocal terms.
32. 2degrees believes that such reciprocal terms should be subject to the exception that 2degrees is not required to operate a fixed PSTN and that the

2degrees local customer is not required to be in a particular fixed point, when making or receiving a local call.

33. Any demand by Telecom for reciprocity in respect of operating a fixed PSTN or being in a particular fixed point would undermine 2degrees' freedom of technology choice and be a serious and fundamental departure from the clear technology neutrality objective of the Act. With interconnection on reciprocal terms with 2degrees, Telecom would be in the same position as for interconnection with a fixed PSTN.

VI Justification for Application

34. In this section, we briefly outline our local service initiatives and explain why 2degrees acquiring the Requested Service will promote competition for the long-term benefit of end-users.
- We explain how 2degrees' local service is expected to work. The heart of our local service initiative lies in allocating local numbers to mobile handsets. This will enable our local customers to be called on either their local or mobile number and answer the phone on their mobile handset. Local service will also allow local customers to make calls from their mobile handset using a local number as the A-number.
 - We note that the Commission has already made a bi-lateral Determination between Telecom and Vodafone that is directly applicable to this matter. The Commission Determination requires Telecom to provide the same services to Vodafone on the same terms that 2degrees is seeking in this Application.

How 2degrees local service is expected to work

Local service is about 2degrees competing in the local access and calling market

35. 2degrees wishes to offer local services to customers using its existing mobile telecommunications network infrastructure.
36. In this Application, the term "2degrees local customers" is used to refer to those 2degrees customers who have purchased 2degrees' local service, in addition to its mobile service.
37. 2degrees' local service will allow customers to have both a local number and a mobile number. 2degrees will assign local numbers that it has been allocated under Number Administration Deed (NAD) processes to the mobile handsets of its local customers.
38. We will define a homezone for each customer. 2degrees local customers will be able to make and receive local calls on their mobile handset when in this pre-defined homezone. More specifically:
- When in zone, calls to a 2degrees customer's local number will be terminated on the customer's mobile handset.

- When in zone, customers will be able to choose to originate calls from their handset using either the local or the mobile number as the Anumber.
 - When out of zone, a call to the local number will, at the election of the customer, be diverted either to voicemail or, for an additional tariff, will be forwarded to the customer's mobile handset. Business customers will also be able to assign the equivalent of an extension number to their mobile handset for use in intra-company and intra-zone/office dialling.
 - If a customer does not want the divert service, when he is out of zone, a call to his local number will go to voicemail.
39. 2degrees' local service for residential and business customers will include a range of voice and data products and services. These services would directly compete with fixed local access, calling and data products of Telecom and other fixed operators.
40. At any one time, customers will either be 'in zone' or 'out of zone'. We intend that, subject to handset support, our local customers will know whether they are 'in zone' by the presence of an icon on their phone display.
41. 2degrees local service will utilise 2degrees' existing mobile network infrastructure, without any need for investment in significant new technology. The operation is relatively straightforward. Both the local number and the mobile number will be affiliated within the 2degrees network with the customer's International Mobile Subscriber Identity (IMSI) number. The IMSI number of each 2degrees customer is stored on the customer's Subscriber Identity Module (SIM).

2degrees would use local numbers allocated to it under the NAD

42. 2degrees has been allocated local numbers by the Number Administrator pursuant to the Numbering Administration Deed and the Number Allocation Rules. These numbers are recorded in the Number Register of the Number Administration Deed.
43. 2degrees' local numbers fall into the category of Geographic Service Codes under the Number Allocation Rules. Rule 7 of the Number Allocation Rules details the rules that apply to the allocation and use of Geographic Service Codes. In particular, rule 7.1.1 provides:

“Geographic Service Code Blocks are allocated for the provision of services with a geographic structure, which can originate or terminate calls over Public Switched Telecommunications Networks.”

44. 2degrees’ allocation of local numbers to its local service customers involves a service that has the required “geographic structure”. Local numbers would be allocated to customers based on their local calling. Similarly, the use of local numbers has a geographic structure imposed through customers being required to be ‘in zone’ to utilise the 2degrees local service.
45. 2degrees’ local service does not create issues of caller confusion about the charges the caller will incur when calling a local number. The dialled number will continue to be relied on to inform the caller of the applicable charge. This is because, with 2degrees’ local service, it is the receiving party who is prepared to pay for the benefit of mobility, while the calling party only pays the cost of a local call. Similarly, a call to a New Zealand mobile number will remain identifiable for callers by the prefix 02X.
46. In fact, we intend that this service will be identical for the calling party to calling a local customer on a fixed PSTN.
47. Local number portability significantly increases the customer appeal of our local service products.

The Commission has already made a bi-lateral Determination that is directly applicable to this matter

48. On 28 September 2006 the Commission made a Final Determination on the Vodafone application for determination for ‘Interconnection with Telecom’s fixed PSTN’
49. The Commission determined that:

Vodafone is not required to operate a fixed PSTN in order to gain access to the interconnection service.

A local voice call is a voice call where the number from which the call originates and the number of the intended recipient of the call are local numbers that have been allocated to the same LICA.

It is not necessary to further define the features of a local voice call beyond the link to a local number. In particular, the interconnection service should not be defined with reference to the characteristics of the proposed Vodafone retail services.

The Commission is not required to consider what happens to a local call from a Telecom customer to a Vodafone local number after the call has been handed over to Vodafone.

Local voice calls between the Parties shall be exchanged at a price of zero in accordance with the pure bill and keep pricing method. This pricing method should enhance efficiency and promote competition for the long term benefit of end users.

Telecom shall not charge its customers a higher price for local voice calls to Vodafone local numbers, relative to the price charged for other local voice calls made by its customers.

2degrees is seeking a determination of exactly the same terms as the Vodafone determination.

VII Requirements for Application

50. In this section, we confirm that this Application meets the statutory criteria in section 22 of the Act.

Existing agreement between the parties

51. Section 22(a) of the Act precludes parties making an application where an agreement exists for the supply of the service for part or all of the specified period of time. There is no current agreement between the parties to the determination for the supply of the Requested Service
52. The parties signed an Interconnection Agreement dated 5 October 2007. The term of this contract was one year and it expired on 5 October 2008. There is a rollover clause within the contract that states:
- If, by the expiry of the Term, the carriers have not negotiated all the terms of a further agreement for the continued provision of the Services, this agreement will continue to apply until the carriers agree on terms or such terms are determined by the Commission, provided that this agreement will cease to apply from the date one year after the expiry of the Term if no such terms have been agreed or determined by that date.
53. Telecom may argue that the 5 October 2007 contract does allow for the handover of local voice calls between the parties. However, the definition of an intra-LICA Call places severe restrictions on the type of retail local voice calling service that may be offered by 2degrees.
54. In particular, an intra-LICA Call is defined as – a Call from one carrier’s Fixed Network to the other carrier’s Fixed Network where the LICA in which:
- a. the Originator’s Local Number is allocated; and
 - b. the Originating End User’s Building is located; and
 - c. the Designated Destination of the call is located,
- are all in the same LICA
55. Fixed Network is defined as “a carrier’s Network that is directly connected to each End User’s Building by means of a wireline connection or a fixed wireless receiver that is attached to the End User’s Building, but excludes any network that provides cellular, mobile radio, paging or other like services.
56. Therefore, it clearly doesn’t allow for the service that 2degrees is requesting – namely interconnection for exchanging Local Voice Calls between Telecom’s Fixed PSTN and 2degrees Mobile PSTN.

Any agreement not to have any term determined by the Commission

57. Section 22(b) of the Act precludes parties making an application where the parties have agreed not to have any term for the supply of the service determined by the Commission. The parties in dispute have never agreed not to have any term for the supply of the Requested Service determined by the Commission.

Reasonable attempts at negotiation

58. Section 22(c) of the Act precludes parties making an application where the applicant has not made reasonable attempts to negotiate the terms of supply of the service with the person who would otherwise be a party to the determination. In this section, we outline 2degrees' reasonable attempts to negotiate the terms of supply by Telecom of the service of interconnection with Telecom's fixed PSTN without reference to the Commission.
59. The Commission has previously acknowledged that industry practice and the dynamics of negotiation between a new entrant and an incumbent are also factors to be taken into account in assessing the threshold as to what constitutes reasonable attempts.
60. It is now over two years since 2degrees and Telecom first commenced negotiations to reach agreement on the Requested Service. The delay in reaching a commercial outcome is despite 2degrees' repeated best efforts to reach a commercial outcome over that period.
61. During this two year period, 2degrees has made several written requests to Telecom and we have met with Telecom representatives to discuss this matter on at least ten occasions. More recently the Commission has been in communication with both parties to keep itself informed of our attempts to resolve this matter.
62. Telecom has been given sufficient time and opportunity to respond to 2degrees' proposals. The threshold in section 22(c) was designed to ensure that parties made a genuine effort to find a commercial solution and not to provide Telecom with an opportunity to manage entry by competitors.
63. 2degrees considers that Telecom's rejection of 2degrees' proposals and insistence on conditions that deny 2degrees the ability to offer a local service

using local numbers over its mobile telecommunications network amounts to actual or constructive refusal to negotiate.

Schedule 1 conditions

64. Section 22(d) of the Act precludes parties making an application where the applicable conditions in relation to the service (if any) have not been met. There are no applicable conditions defined in the Schedules to the Act relating to the designated service of interconnection with Telecom's fixed PSTN.

Approved Code

65. There is no approved code that provides for any matters sought in the determination.

VIII Description of the Dispute that Gave Rise to the Application

The main issues in dispute

66. Geographic area of the “Homezone”
 - a. Telecom is seeking to restrict the geographic size of any free calling “homezone” that 2degrees offers to its retail customers. Telecom has provided only one written discussion paper to 2degrees. This suggested that a radius no greater than 1 kilometer around the end users “notified premises” is appropriate.
 - b. 2degrees is of the view that the interconnection service should not be defined with reference to the characteristics of 2degrees proposed retail service. A local voice call is a voice call where the number from which the call originates and the number of the intended recipient of the call are local numbers that have been allocated to the same LICA. No further definition or restriction is necessary.
67. Non-discrimination of retail pricing
 - a. 2degrees is of the view that Telecom should not be allowed to impose any charge on its retail customers that would discriminate between calls to Telecom local numbers and calls to 2degrees local numbers.
 - b. Despite repeated requests, Telecom has never formally responded to this request.
68. With the exception of the above issues, 2degrees believes that the parties are largely in agreement on the other terms. Although this seems a discrete dispute, it determines the critical issue of whether 2degrees can offer a local service using local numbers over its mobile telecommunications network.

Interconnection implications generally

69. 2degrees submits that Telecom’s refusal to provide the Requested Service, where there are no interconnection implications arising out of 2degrees’ local service and the Commission has already made a determination on an identical issue, is unreasonable and suggests an anti-competitive purpose. 2degrees local service will allow mobility within a homezone and, for customers who take the divert-to-mobile option, full mobility in receiving local

- calls. This is not, as Telecom may suggest, a quality that excludes 2degrees from competing in the local calling and access market.
70. Considering the interconnection implications of 2degrees' local service for Telecom's costs, the fact that 2degrees' local service will be offered over a mobile network, with customers enjoying the benefits of mobility within a Home Zone, will be irrelevant.
- There will be no additional costs for Telecom arising out of the limited mobility aspects of 2degrees' local service in the homezone, nor through the divert option that gives full mobility in receiving calls.
 - There will be no additional costs for Telecom as compared to calls made to, or received from, local numbers on any other carrier's network.
 - There will be no additional obligations on Telecom as all local calls will continue to be either terminated or handed over by Telecom in the "home" LICA or the associated Major LICA.
71. On the basis therefore that, from both Telecom's perspective and a calling party's perspective, the call remains a local, or intra-LICA, call, 2degrees seeks a determination that obliges Telecom to hand-over the local call to 2degrees within the home LICA, or the associated Major LICA, as it would with any other carrier.
72. 2degrees is proposing an interconnection charging regime of bill and keep. We understand this is identical to the interconnection charging regime that Telecom has with fixed network operators, including Vodafone, for local (or intra-LICA) calls.
73. It is also consistent with Telecom's "Standard Reference Offer", which provides:
- The charges each carrier must pay to the other for origination and/or termination of all Intra-LICA Calls and Internet Calls are nil (i.e. those Calls will be charged on the basis of "pure bill and keep").
74. It is important to note that Telecom considers the charges for "origination" of Intra-LICA Calls would be on a pure bill and keep basis. This can be interpreted as there being no charge for any hand-over of Intra-LICA Calls to the other carrier.

2degrees' position on the meaning of "local call"

75. A call is a local call where the number from which the call originates and the number of the intended recipient of the call are local numbers that have been allocated to the same LICA.
76. Our interpretation is consistent with the Commission's previous section 20 determinations.

X Terms of Determination

Amendments to the Supply Agreement

The Supply Agreement is amended by:

77. addition to Schedule 2, 1.1 of a new definition:
Local Call means a voice call where the number from which the call originates and the number of the intended recipient of the call are Local Numbers that have been allocated to the same LICA. And, for the avoidance of doubt, isn't an Intra-LICA Call.
78. amending Schedule 2, 1.1 definition of Telco Call to:
Telco Call means:
- a. a Standard Call, a Terminating National Transport Call, a Mobile Call, an Internet Call, an Intra-LICA Call, **a Local Call**, or a 111 Call to be handed over from Telco's Network to Telecom's Network; or
 - b. a Toll Bypass Call, a Personal Number Service Call or a Toll-Free Call to be handed over from Telecom's Network to Telco's Network.
79. amending Schedule 2, 1.1 definition of Telecom Call to:
Telecom Call means:
- a. a Standard Call, a Terminating National Transport Call, a Mobile Call, an Internet Call, an Intra-LICA Call and **a Local Call** to be handed over from Telecom's Network to Telco's Network; or
 - b. a Toll Bypass Call, a Personal Number Service Call or a Toll-Free Call to be handed over from Telco's Network to Telecom's Network.
80. Amending Schedule 2, 13.1 to:
The following types of Telco Call that are handed over must be handed over at a Telco Handover Point established in accordance with clause 10:
- a. Standard Calls, Terminating National Transport Calls, Internet Calls, Mobile Calls, Intra-LICA Calls, **Local Calls** and 111 Calls handed over by Telco; and
 - b. Toll Bypass Calls and Toll-Free Calls handed over by Telecom.
81. Amending Schedule 2, 13.2 to:
The following types of Telecom Call that are handed over must be handed over at a Telecom Handover Point established in accordance with clause 10:
- a. Standard Calls, Terminating National Transport Calls, Internet Calls, Mobile Calls, Intra-LICA Calls and **Local Calls** handed over by Telecom; and

- b. Toll Bypass Calls and Toll-Free Calls handed over by Telco.
82. amending Schedule 4, 3.1 to read:
The charges each carrier must pay to the other for origination and/or termination of all Intra-LICA Calls, Internet Calls **and Local Calls** are nil (i.e. those Calls will be charged on the basis of “pure bill and keep”).
83. addition to Schedule 2 of a new clause 40
Telecom shall not charge its customers a higher price for Local Calls to 2degrees Local Numbers, relative to the price charged for other local voice calls made by its customers.

Period of Determination

84. 2degrees proposes that the determination should apply for a period of 36 months from the date of the Commission’s determination. 2degrees considers this to be an appropriate horizon in that it provides certainty to the parties, while also recognising that the dynamic nature of the industry requires any determination to be flexible in the medium to long-run.
85. The proposed period will provide a sufficient amount of time for 2degrees to prepare and commence operation of its local service, however the period will not be so long that it will hinder negotiation of different terms and conditions should this be necessary as a result of changing conditions in the industry.
86. 2degrees also requests that:
- The Determination require the parties to commence negotiations of further terms of supply at least 6 months before expiry of the current term; and
 - If the parties have been unable to agree to new terms by the expiry of the current term, the Determination shall continue the existing terms on an interim basis until the new terms are agreed or determined. However, any terms applied on an interim basis should not prevent either party making an application for a further determination.

XI Confidentiality

87. This Application is not confidential.

Declaration

THIS application is made by **Bill McCabe** on behalf of **Two Degrees Mobile Limited**.

Two Degrees Mobile Limited hereby confirms that:

- all information specified by the Commerce Commission (“the Commission”) has been supplied;
- all information known to the applicant which is relevant to the consideration of this Application has been supplied; and
- all information supplied is correct as at the date of this Application.

Two Degrees Mobile Limited undertakes to advise the Commission immediately of any material change in circumstances relating to the Application.

Dated this day of May 2009.

*Signed by **Two Degrees Mobile Limited**:

Bill McCabe, Chief Commercial Officer

I am a Chief Commercial Officer of the company and am duly authorised to make this application.