

4 September 2006

Osmond Borthwick
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Commerce Commission
P O Box 2351
WELLINGTON

BY EMAIL

Dear Osmond

Response to Econet's complaint re submission at the extension review conference

1. Thank you for your letter of 28 August asking for my comments on Econet's complaint.
2. Econet is alleging that Vodafone has deliberately tried to mislead the Commission in relation to co-location. We view this allegation very seriously and we completely reject it. Vodafone has never deliberately misled the Commission.
3. We are committed to evidence-based decision-making on public policy issues. We want the Commission to make fully-informed decisions that are based to the fullest extent possible on empirical evidence. We value vigorous debate on the various matters which affect our business – but at all times based on the facts. We strive to provide submissions which are complete and accurate in all respects and update them promptly if we later learn that there is inaccurate or out of date material in them.
4. We firmly believe that, with the updated material provided, we have provided full and accurate information to the Commission on the issue of cellular co-location. We would be happy to verify this by providing some sort of certification from our auditors.

Econet's specific claims

5. Econet has made two specific allegations. It claims that Vodafone and its representatives have deliberately misled the Commission with respect to:
 - the level of cellular co-location that Vodafone does in New Zealand; and
 - the level of cellular co-location that Vodafone has achieved when overlaying its W-CDMA/3G network on its own existing 2G network.

The terminology of co-location

6. At the heart of this issue is the terminology of co-location and sometimes less than fully consistent use of language. In this letter we adopt the co-location definitions below.
 - “Co-siting” is where two separate sets of cell site apparatus are found in one place.
 - “Shared facilities” occurs when two sets of cell site apparatus are found in one place and depend on each other in some way – whether it be sharing power, shelters, but not masts.
 - “Co-masting” is typically an extension of shared facilities where masts are also shared. Occasionally, we co-mast without sharing other facilities.
7. In our experience, co-location activity between Vodafone and other operators applies to either lattice towers or poles and not to other types of sites. It has included sharing facilities and sharing masts or both. We have not co-located on any other site type, and no other operator has sought access to another site type.

Co-location with other parties

8. With respect to our site sharing with other parties, we have updated the Commission with new information as it became available. Our latest review confirms that this information is unchanged from the extension review conference. But the Commission should be aware that we are currently processing co-location requests from a number of access seekers and the statistics will change over time.
9. By way of explanation, we first presented details of our co-location agreements at the interview on the mobile services review on June 30 (see slide 87 of the Vodafone pack). At that point the Vodafone public policy team did not fully appreciate the distinction between sharing facilities and sharing masts within the term “co-location”. Once this became clear, we promptly updated the Commission.
 - We therefore set out more specifically what we shared in the follow-up slides after our interview (see slides 11 and slide 12 in the pack that Hayden Glass sent to Thomas Forster on 31 July), and indicated that we had included this information in the email that accompanied those slides.
 - We also presented the more detailed picture in our presentation at the conference (see slide 10).
10. There was one statement by email from Hayden Glass to Greg Fowlie of Econet on 10 July, which could be the foundation of Econet’s concerns. That email was a response to a question from Econet about the extent of co-location and says, in part, “we have around 50 sites where others co-locate on our masts, with about 30 of these with Telecom.” This was not correct with respect to the co-masting count and simply reflected a lack of appreciation of the types of co-location at that time. The correct position would have been apparent from information presented at the conference.

Re-use of 2G sites for Vodafone's 3G roll out

11. Of our lattice tower or pole 3G sites we have co-masted 36% (167) on 2G sites. Included in this number are some sites which were completely new ("greenfield") sites accommodating both 2G and 3G. And there are some road sites counted here that may not support co-location or co-masting, but we have been unable to split these out in the time available. This is slightly lower than the 40% figure we presented to the Commission because, upon receiving the letter from Econet, we have checked and updated our internal data and we ask that the Commission updates our submission to reflect this.
12. We co-mast a further 18% (85) of 3G sites which are either in-building, micro or rooftop sites.
13. We share facilities on another 22% (100) rooftop 3G sites.
14. These 185 co-masted and shared facilities sites have presumably shown up when Econet has looked at the MED's SMART database.
15. Our engineers tell us that although it is feasible to mast share with another operator on a rooftop site (subject to landlord, RMA and interference constraints) we have never done this on another operator's rooftop site, and no other operator has sought to share a mast or share facilities on a Vodafone rooftop site.
16. What tends to happen with rooftops is that we often co-site with other operators without sharing facilities or masts. For example, we recently processed an application from Econet so it can co-site near two of our rooftop sites. All Econet's other (approximately 30) co-location applications Vodafone has received in recent weeks concern poles of some type. None are for co-masting or sharing facilities on Vodafone rooftop sites.
17. In referring to a target of co-locating 80% of our 3G sites with existing 2G sites, the inconsistency of terminology has caused some confusion – including within Vodafone. Our latest research into this piece of history reveals that the target was more general than most of us thought. This target included co-masted in-building, micro or rooftop sites and share facilities rooftop sites – that is it encompassed another 40% of our 3G sites. Using this broad definition rather than the narrower one we had used in the conference, we have therefore only missed the target by 4% (76% outturn against 80% target).
18. This confusion has arisen because, within Vodafone, those planning the network used a broad definition that included all site types, while those managing the site build used a narrow definition that included only lattice towers and pole sites (and it was the latter data that was included in the submission).
19. The Commission should appreciate that these definitions work well for the respective areas, and our confusion arose from introducing data from each these two areas without appreciating that inconsistent definitions were being used within Vodafone. This was a genuine oversight and we have not at any time deliberately attempted to mislead the Commission.
20. A final comment on the topic of 3G is necessary to counter the comment in Econet's letter that "Vodafone's W-CDMA/3G network.....is.... simply an overlay

on its existing GSM 900/1800 network requiring marginal new investment". 3G is not a simple software upgrade to 2G. It requires completely new cell site equipment and introduces significant network elements which do not exist in the 2G model (e.g. RNC). Most of the 2G radio access network infrastructure remains in place. Some synergies are available at the core switching level, depending on the vendor. Vodafone has spent around \$150 million on its 3G network in the periods to 30 June 2006 and is continuing its investment with more coverage and the roll out of 3G mobile broadband. This is not a "marginal" investment in anyone's books.

21. Regarding Econet's co-location requests, we have approved two applications from Econet to co-site on rooftops. The remaining 30 applications have been processed and we are waiting for confirmation from Econet to proceed to the next stage, a desktop study. We have declined two applications, one because we do not have the right to sublet. And another because the property has changed hands and our own tenure is in question due to the new owner believing that they purchased with vacant possession.
22. Telecom has applied for 14 co-locates but at this stage there is no indication of what level of co-location is involved with these as they are at a very early stage. We have eight applications with Telecom, including two co-mast and four co-site. TelstraClear has not yet applied to Vodafone for any co-location. We have sent it a list of all Vodafone mast sites in the area that TCL is looking to deploy its new Tauranga network, for its information.

Conclusion

23. If Vodafone's own confusion of terminology has caused confusion in the Commission's mobile sector review then I can only apologise and assure the Commission that we will review our processes to ensure that such a situation does not occur again.
24. I would welcome a prompt response from the Commission on this matter. The issues affecting our reputation and credibility arising from an allegation that we deliberately misled the Commission are of utmost importance to us.

Yours sincerely
Vodafone New Zealand Limited

Tom Chignell
General Manager, Commercial Development

Cc:

Chris Perera
MED