



Vodafone New Zealand Limited

v.nue, 20 Viaduct Harbour
Private Bag 9 2161
Auckland, New Zealand

Reception +64-9-355 2000
Facsimile +64-9-355 2006

7 February 2006

Anthony Morris
Network Access Group
Commerce Commission
P O Box 2351
WELLINGTON

BY EMAIL

Dear Anthony,

Vodafone submission on MTR reconsideration draft report

Please find attached Vodafone's submission on the Commission's reconsideration Draft Report into the regulation of mobile termination rates.

This letter covers issues of confidentiality, and we repeat our suggestion of a conference or an industry workshop to discuss 3G regulation.

Confidentiality

This submission (including the attachments) are filed subject to the Commission's Confidentiality Order relating to the Mobile Termination Reconsideration dated 1 November 2005.

The attached submission contains both restricted information (under paragraph 9(b) of the Order) and information for which Vodafone seeks additional protection (under paragraph 4 of the Order).

- Vodafone-designed restricted information is classified as VNZRI in the document.
- Vodafone requests "Commission-only" status for all of the information marked in the submission as VNZCOI.

We have accordingly provided:

- A Public version of the submission, with the Commission-only and Restricted Information cut out,
- A Restricted Information version of the submission, with the Restricted Information clearly identified in square brackets, but with the Commission-only Information cut out.
- A Commission-only version of the submission, with the Commission-only Information clearly identified in square brackets and noted as "VNZCOI".

We have provided a Restricted Information version of the Covec paper that accompanies our submission. We will provide a public version of this paper shortly

(although the amount of material that would be cut out from the submission will be rather substantial).

We have also provided two Restricted Information models that present Covec's suggested changes to the Commission's CBA model. We are not planning to submit a public version of these, since, without restricted information, there would be very little content of any relevance. However, we are happy to follow the Commission's wishes on this, so if you would prefer us to create a public version, please advise.

The other attachments to our submission (papers by NERA, Vodafone Group and David Newbury) are public and contain no Restricted Information.

Commission-only Information

In order to present a full picture for the Commission, we have included certain information in our submission that is highly commercially sensitive and confidential to Vodafone. We have kept information in this category to an absolute minimum. It includes:

- specific details about Vodafone's expected outgoing and incoming revenue per minute in the future
- forecasts of customer numbers on Vodafone's 2G/3G networks,
- Vodafone's current and planned 3G coverage and our rollout plans for HSDPA, and
- details about how important termination revenues are to our 3G revenues.

It is important that we have the ability to present this information as part of our case. The information adds significant value to Vodafone's arguments, particularly in substantiating our concerns about the Commission's recommendation to regulate termination on our 3G network.

But at the same time, the information is extremely commercially sensitive. Any disclosure to persons other than the Commission would be likely to cause significant prejudice to Vodafone's interests. We would also be concerned about the Commerce Act implications of disclosure of our expectations on future mobile prices to our competitors.

Vodafone recognises the tension between protecting commercially sensitive information and the need for the Commission to allow other parties to respond to submissions. However, Vodafone finds itself in a position where it needs to disclose the information to the Commission to make its best case but such disclosure involves significant risk.

We therefore request that the Commission review the VNZCOI information and provide confirmation to Vodafone that:

- Commission-only status will be granted in respect of the VNZCOI information; or

- If such status will not be granted, then the Commission will return the submission and attachments in full (or delete them) and allow Vodafone to provide a revised version without the VNZCOI information.

Other parties will be able to respond to the substance of Vodafone's arguments without seeing the particular information that in some cases backs up those arguments. We have tried to ensure that the arguments in the submission are comprehensible even without access to the Commission-only information.

If the Commission declines to agree to this approach or is considering releasing the information for which we are seeking Commission-only status, then Vodafone requests that the Commission notify Vodafone of this fact, and refrain from any disclosure for two working days to give Vodafone sufficient opportunity to protect its position.

Process

We view the Commission's decision to propose regulation of termination on our 3G network as a material change from its previous approach.

In our view the approach the Commission takes in its reconsideration Draft Report suggests that it does not fully appreciate the issues surrounding the regulation of our 3G network. We are concerned that the difficulties we see in regulating 3G are not able to be appropriately communicated through the written submission process.

We therefore reiterate our suggestion of a conference or an industry workshop to discuss these issues more fully. In our view the risks of mistake when considering regulation of 3G services are high, given the lack of evidence on costs and demand for 3G services at this point.

If you have any questions, or would like further information about our submission or our confidentiality concerns, then please feel free to drop me a line to tom.chignell@vodafone.com or call me on 021 639 977.

Yours sincerely
Vodafone New Zealand Limited

Tom Chignell
General Manager, Commercial Development