



## COMMERCE COMMISSION

8 February 2005

To: All parties who made submissions on mobile termination draft report

### **By email**

#### **Mobile Termination Conference**

Telecom has written to the Commission expressing concern that the Commission has announced significant changes to the conduct of the mobile termination conference two weeks before its scheduled date. This letter responds to these concerns, and also to Telecom's request that the Commission clarify its position on whether the Commission proposes to regulate mobile termination when the call originates on a mobile network.

The purpose of the conference is to assist the Commission in understanding the issues and to assist it to come to a conclusion on whether or not to recommend regulation.

The Commission signalled in correspondence in November last year that it wanted to bring more focus to its investigation by ensuring that all relevant material and comments on other submissions were disclosed prior to the conference.

The Commission has now had the opportunity to review submissions and cross submissions on the mobile termination draft report, and it is clear that parties have well articulated positions on the full range of issues before the Commission. In these circumstances, the most efficient and cost effective way to organise the conference is to allow Commissioners to seek information that will clarify the remaining issues of concern.

Parties have had full opportunity to present their views prior to the conference, with three full rounds of submissions – submissions on the issues paper, submissions on the draft report and cross submissions on the draft report. The Commission does not, therefore, consider that it is necessary to allow parties time at the conference to make detailed oral submissions that would largely repeat material already disclosed in prior written submissions.

The conference date has been known since mid November. Prior to this, it had been rescheduled several times at the request of parties to ensure that particular experts would be available. The Commission therefore expects that parties would have ensured that key personnel would be available for the full three days of the conference.

The Commission has structured the agenda to ensure that more fundamental issues are dealt with first, and other issues follow in logical sequence. Accordingly, the Commission does not intend to make major alterations to its proposed conference schedule.

### **Mobile-to-Mobile Termination**

Several parties have submitted that the Mobile Termination Draft Report is unclear on whether the Commission proposes to regulate mobile termination when the call originates on a mobile network.

In the Draft Report, the Commission recommended regulation of mobile termination rates by allowing providers of fixed-to-mobile services to seek access to the mobile termination service. This recommendation is based on the Commission's preliminary findings in the Draft Report, as explained below.

- Chapter 3 of the report identifies the relevant markets. The Commission defined a separate wholesale market for mobile termination services on each of the mobile networks operated by Telecom and Vodafone. The Commission identified two relevant downstream retail markets, namely the retail market for tolls and fixed-to-mobile calls, and the retail market for mobile services (including mobile-to-mobile calls).
- The Commission analysed the state of competition in the relevant markets in Chapter 4. The Commission found that the mobile network operators are subject to limited competition in the wholesale market for termination services on their respective networks, and that the retail market for tolls and fixed-to-mobile calls is subject to limited competition. The Commission did not form a definitive view on whether the retail mobile services market is subject to limited competition.
- Chapter 5 provides the detail of the Commission's cost-benefit analysis, where the Commission estimated the net benefits of regulating mobile termination. These are calculated on the basis that a reduction in mobile termination rates leads to a reduction in retail fixed-to-mobile prices and as a result to an expansion in uptake of the service. The Commission's cost-benefit-analysis indicated that substantial net benefits to end-users of fixed-to-mobile services are likely to arise from regulating mobile termination.
- The Commission's draft service specification for the mobile termination service reflects the above findings. As the Commission found that the retail market for tolls and fixed-to-mobile calls is subject to limited competition, and likely to benefit from increased competition, access to the regulated service is limited to those access seekers providing fixed-to-mobile services. The service specification is contained in Chapter 7 of the Draft Report.

Yours faithfully



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