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The Manager
Mobile Termination Issues Paper
Network Access group
Commerce Commission
PO Box 2351
Wellington

Dear Sir/Madam

Econet Wireless New Zealand (EWNZ) thanks the Commerce Commission for the opportunity to make this submission.

Econet Wireless's position is that the high termination rates in the New Zealand mobile market is partial evidence of a broader problem, which is simply the fact that a duopoly exists, with each operator using different technology platforms.

The Commission clearly can see that the New Zealand consumer is paying far too much for mobile telephony. However, regulating specific termination pricing is only part of the issue, and can be balanced against legitimate capital expenditure concerns. The real reason that New Zealanders pay too much for mobile telephony is that there is no meaningful competition.

The Commission's move towards lower mobile termination rates comes after similar moves by European and Australian regulators. But even when these rates were very high, New Zealanders were still paying approximately 2.4 times the OECD average for their mobile phone calls. Therefore, even if termination rates come down in line with moves overseas, the lack of a third or fourth operator will still present a structural problem in the New Zealand mobile phone industry.

Econet Wireless's submission is that the Commission needs to take a holistic view of the problems that exist in the industry, and recognise that the current duopolistic structure in mobile is the main driver behind high mobile tariffs, particularly as it is underscored by a monopoly in GSM provision.

Accordingly, the Commission's efforts should be directed towards remedying the current problems in the Telecommunications Act, since these problems act as a disincentive to investment in New Zealand mobile telecommunications, and fail to address the massive imbalance brought about by a high penetration monopoly market.

To this end, it encourages the Commission to study the experiences of late penetration new entrants around the world. Specifically it should study the regulatory systems which have provided the platforms for market entry, and the incumbents' responses to their entry. It should also study the effect third entrants have had on consumer pricing and services.

Telecommunications Act
A commercially realistic Telecommunications Act would require a number of changes to enable both operators and investors to have confidence that their investment would be safe from the actions of the incumbent operators. The New Zealand telecommunications regulatory system includes a number of features that are not found elsewhere in the world, and have never been effective in providing a platform for competition. If New Zealand wishes to emulate other countries' success in attracting investment and competition, it needs to bring its regulatory system in line with those countries. It cannot expect to attract the investment and competition that other countries have if its regulatory system does not support market entry.

Roaming and number portability are two areas which need to be revised in order to provide a sound basis for market entry. Again, international experience in these areas is out of line with the current New Zealand approach.

The details of any changes to the Telecommunications Act need to be considered. However, we would like the Commission to accept the principle that the current high tariffs are principally due not to high termination rates, but to lack of competition. We reiterate that other countries with high termination rates nevertheless have much lower tariffs than New Zealand does. Therefore when these countries are lowering termination rates, New Zealand will simply be maintaining its position relative to other countries: ie, call rates will still be far too high. The fundamental which other countries have, but which New Zealand doesn't, is meaningful competition brought about by a number of mobile operators. Until this happens in New Zealand, New Zealanders will not enjoy the benefits of mobile telephony enjoyed elsewhere in the world.

For clarity's sake, we'd like to set out some of the features of the New Zealand mobile landscape that concern us:

- One network gains circa 75% of all new additions
- One network has a roaming monopoly for GSM – by far the world's leading mobile telephony system
- Call tariffs are still circa 2.4 times the OECD average
- One network is positioned to transfer a GSM monopoly to a 3G monopoly, thereby locking in a generation of mobile phone users into an uncompetitive market for years to come.
- The GSM operator is so profitable that even its prospective 3G network, which it argues represents a significant investment for it, will cost only around 6 months of its free cash flow. This means that the market has got to such a point that even a significant infrastructure build becomes merely an opportunity to further cement the incumbents' stranglehold on the market.

These are issues which are fundamental to the mobile telecommunications industry in New Zealand, and which won't be solved by reducing mobile termination rates. Reducing these rates will only bring about a relative change. The only way to bring about meaningful change in tariffs and services for New Zealanders is to attract market entry by resolving the current anomalies and clarifying detail in the Telecommunications Act. Without that, New Zealanders will continue to be locked into a duopoly, and will pay multiples of the prices paid by their OECD peers.

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Yours sincerely,

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