

28 August 2009

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**PUBLIC VERSION**

Shane Kinley & Tom Forster  
Telecommunications Branch  
Commerce Commission  
**WELLINGTON**

Dear Shane & Tom

**Reclassification of average on-net and off-net termination prices**

1. We refer to the letter from the Commerce Commission to all interested parties to the MTAS Investigation dated 26 August 2009 setting out the Commission's preliminary view that information relating to average retail on-net and off-net termination prices (**Information**), derived by the Commission from RI information supplied by Vodafone and Telecom, should be reclassified as public information under the MTAS confidentiality order (**Order**).
2. 2degrees supports the preliminary view of the Commission that the Information goes to the heart of the MTAS Investigation and that there are significant public benefits in public disclosure and discussion of the information at the MTAS Conference.
3. 2degrees also agrees with the Commission's preliminary view that the Information does not require protection under the Order.
4. It is important to note that the Information will not be representative of the *lowest* retail prices charged by the incumbents and should therefore represent an absolute ceiling from which wholesale MTAS prices may be estimated.
5. This is because the underlying information provided by each of Vodafone and Telecom lacked granularity and was itself an average of *all* retail prices charged by each operator. The underlying information therefore includes the highest prices charged in the market, necessarily skewing the numbers upwards. The Commission's calculation also combines the data from each operator (ie it is an "average of their averages") further skewing the final numbers upwards.
6. While the Information lacks specificity it is important that the information which is available should be subject to public discussion. Given the lack of granularity in the Information 2degrees does not consider that public disclosure will be detrimental to the commercial interests of Vodafone or Telecom. 2degrees does not accept arguments that such general information can be reverse engineered. These arguments are further examples of spurious process complaints and should be ignored.

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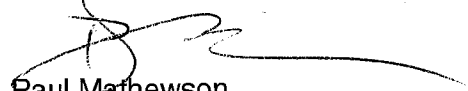
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**PUBLIC VERSION**

7. Please feel free to contact us if you would like to discuss any aspect of this submission.

Yours faithfully

**Minter Ellison Rudd Watts**



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