

21 July 2009

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Shane Kinley & Tom Forster
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Commerce Commission
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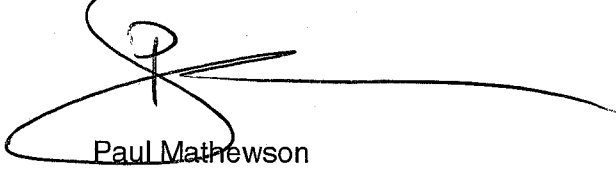
Dear Shane & Tom

Confidentiality Order - Request for Review of Status of Information

1. We refer to the confidentiality order made by the Commerce Commission (**Commission**) under section 100 of the Commerce Act 1986, as applied by section 15(i) of the Telecommunications Act 2001 (**Act**), on 6 November 2008 (**Confidentiality Order**) in relation to the Commission's investigation of mobile termination access services (**MTAS**).
2. Two Degrees Mobile Limited (**2degrees**) requests under clause 24 of the Confidentiality Order that the Commission review the confidentiality status of information provided to the Commission by Vodafone and Telecom in response to the Commission's data request of 12 November 2008 (**Data Request**) which sought information relating to (among other things) the make up of the mobile subscriber base in New Zealand, retail volumes and revenues for voice and SMS traffic and average prices on the Vodafone and Telecom networks.
3. 2degrees requests that the status of the information currently designated Commission Only Information in the responses by Vodafone and Telecom to the Data Request is reviewed by the Commission and reclassified as Restricted Information.
4. This request is made on the basis that the information is required by the professional advisers of 2degrees in order that 2degrees is able to evaluate and provide a full and informed response to the Commission's draft report on MTAS (**Draft Report**).
5. In the absence of this information being reclassified as Restricted Information:
 - (a) There is a significant information asymmetry in favour of the incumbent operators; and
 - (b) 2degrees is unable to evaluate and comment fully on the Commission's approach to costs and determination of a factual price for MTAS set out in the Draft Report.
6. 2degrees does not consider that the additional protection of designation as Commission Only Information is necessary to prevent undue prejudice to the commercial position of Vodafone and/or Telecom.
7. Given the deadline for submissions on the Draft Report is 28 July 2009 2degrees asks that the Commission treat this request as a matter of urgency.

8. We confirm that we have copied this request to Nominated Counsel for Vodafone and Telecom and that we are happy to discuss this request with the Commission should it wish to do so.

Yours faithfully,
Minter Ellison Rudd Watts



Paul Mathewson
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