



COMMERCE COMMISSION

Please refer to:
13.1/J11128
880651_2

20 August 2009

To all Interested Parties to the MTAS Investigation

MTAS Investigation Conference - Administrative arrangements

This letter outlines the arrangements for the Commission's upcoming conference (the **Conference**) for the mobile termination access services schedule 3 investigation (**MTAS Investigation**). As previously advised, the conference is scheduled to be held on Wednesday 2 and Thursday 3 September 2009, in Wellington.

Background

On 30 June 2009 the Commission released its draft Report (**draft Report**) for the MTAS Investigation. Submissions on the draft Report were received from interested parties on 28 July 2009, and cross-submissions were received on 18 August 2009.¹ The Conference is the next step in consultation for preparation of the Commission's final Report for the MTAS Investigation.

In light of the comprehensive submissions and cross-submissions, Commissioners are satisfied that they have a good understanding of the various views and positions being advanced. The Conference will allow the Commission to consult on specific issues where it wants to deepen its understanding or clarify differences between the parties.

The Commission is currently finalising the Agenda for the Conference which will identify the key issues that it wishes to discuss at the Conference.

The Conference also provides interested parties with an opportunity to provide an overview of their position, by presenting opening and closing statements. As noted below, opening statements are to be provided in writing before the Conference.

The parties must have their nominated experts available to respond to the Commission's questions at the Conference.

¹ Separate timelines applied to submissions and cross-submissions in relation to reclassified data questionnaire responses and information about commercial interconnection agreements.

Venue and timing

The Conference will be held at the Holiday Inn at 75 Featherston Street, Wellington on Wednesday 2 and Thursday 3 September 2009.

Start and finish times will be provided when the Commission releases the detailed agenda shortly. There will be a lunch break and breaks for morning and afternoon tea on both days.

The Commission requests that parties endeavour to provide opening/closing addresses and answers to Commission questions in an efficient manner so that the full range of items can be considered.

Procedure for presenting statements

Oral statements will be made from a central table. Parties are not required to provide a statement of issues or written submissions at the Conference. Parties may not raise new matters and discussion will be limited to clarification of those issues that have been raised in submissions and cross-submissions throughout the MTAS Investigation process.

Parties are required to provide opening statements in writing to the Commission by 5pm on Monday 31 August and to provide copies for circulation to Conference attendees on the morning of the Conference. These written opening statements should summarise a party's positions on the key issues raised throughout the MTAS Investigation, with a focus on those issues to be discussed at the Conference. The Commission will allow a period of no more than 15 minutes for parties to speak to these written opening statements. Parties should not repeat their submissions in their written opening statements.

The Commission has also decided to allow a period of no more than 15 minutes for closing statements from the parties. Parties should focus closing statements on the matters discussed at the Conference and should not repeat their submissions in their closing statements.

Each issue will be introduced by the Commission. Members of the Commission, Commission staff and the Commission's expert advisers will question the parties.

The Commission expects that experts attending the conference appear as experts in their fields rather than as an advocate for any particular party. The Commission expects experts to follow the guidance provided in the Code of Conduct for expert witnesses contained in the High Court Rules. A copy of the Code of Conduct is attached. Experts will be requested to orally confirm at the Conference that they are appearing as experts and agree to follow the guidance in the Code.

The Commission may choose to initially direct some questions to experts, where those questions relate to topics that the Commission is seeking the expert's professional opinion on. These questions will be clearly signalled as being for expert opinion and all experts will be asked to comment sequentially on those questions, without reference to the parties. Parties will then be provided an opportunity to comment on the experts' opinions, once all experts have commented.

The parties may only ask questions of the Commission for the purpose of clarifying a question. No party will have the right to cross-examine the Commission or any other party during the proceedings.

All parties are required to provide 40 public copies for attendees of any document produced during the Conference which clarifies their position on matters raised in their submissions and cross-submissions. Parties are also required to provide 40 public copies of their written opening statements. Following the Conference, an electronic version of these documents must also be produced (pdf format preferred) for publishing on the Commission's website.

The Commission's expectation is that no confidential material will be presented during the conference. Nonetheless, should parties wish to present confidential information at the conference, please inform the Commission of your intention by 5pm Monday 31 August 2009. The Commission will then decide on whether it is necessary to host a closed session or remain in an open forum but on the condition that parties take all necessary steps to protect the material in accordance with the applicable confidentiality order.

A computer and data projector will be available for use by parties making statements.

As is normal procedure, the conference will be recorded on audiotape. A stenographer will also provide a transcript of the conference.

Copies of the transcript will be made available on the Commission's website.

If you wish to present an opening and/or closing statement at the conference, please provide the names of the presenters to Shane Kinley (shane.kinley@comcom.govt.nz) by 5pm on Wednesday 26 August 2009, and the period of time that you intend to speak for. Please also provide the names and position of those people who will attend the conference for or on behalf of your organisation, including any nominated experts who wish to participate in the discussion on the relevant issues.

Tea and coffee will be available for all participants. All mobile phones must be turned off during the proceedings.

Should you have any queries, please contact Shane Kinley on (04) 924 3686.

Yours sincerely



Tom Forster
Manager - Telecommunications Branch