



COMMERCE COMMISSION

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cc: Interested Parties to the MTAS Investigation

Request for revised undertakings

At the MTAS Conference held on 2-3 September 2009, the Commission determined that there would be an opportunity for access providers to submit revised undertakings after the MTAS Conference, should they wish to do so. This letter formally sets out the Commission's determination as announced at the MTAS Conference.

This letter also sets out the Commission's preliminary view in respect of substantive issues raised by the undertakings.

Process for submission of revised undertakings and submissions

As announced at the MTAS Conference, there will be an opportunity for access providers to submit revised undertakings. The Commission considers that four weeks from the MTAS Conference is a reasonable opportunity for Vodafone, Telecom and 2degrees to submit revised undertakings. The Commission invites these parties to provide written revised undertakings, should they choose to do so, by 5pm on Friday 2 October 2009. Revised undertakings should be forwarded to Shane Kinley at shane.kinley@comcom.govt.nz.

The Commission intends to allow an opportunity for submissions on the revised undertakings received. The Commission considers that two weeks is a reasonable opportunity for interested parties to make submissions on the revised undertakings (if any). Accordingly, the Commission invites submissions on the revised undertakings by 5pm Friday 16 October 2009. Submissions should also be forwarded to Shane Kinley at shane.kinley@comcom.govt.nz.

The Commission notes that submissions on any revised undertakings should address issues directly related to the revised undertakings only. The Commission does not intend to provide an opportunity for cross-submissions.

Substantive issues

This letter also sets out formally some substantive comments made by the Commission in respect of undertakings at the MTAS Conference.

First, the Commission acknowledges Telecom's revised undertaking, submitted with its submission on the Commission's draft Report into MTAS. Telecom reiterated at the MTAS Conference that it had submitted a revised undertaking in good faith. The Commission has a preference for commercial solutions where possible, and the Commission acknowledges Telecom's efforts to seek to resolve outstanding issues via the undertakings regime.

The Commission also notes the discussion at the MTAS Conference in respect of the possibility of different pricing principles for each of the MTAS services. The Commission encourages access providers to consider submitting separate undertakings for each of the MTAS services. The Commission also notes that Vodafone has adopted this approach with its initial undertakings.

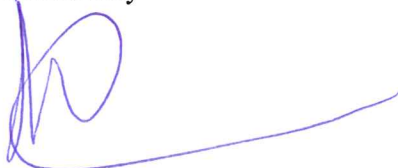
Finally, the Commission is mindful of the low effective on-net price that access providers are charging themselves for provision of MTAS. The Commission considers, at this stage, that it would be difficult for it to recommend undertakings to the Minister for acceptance if the termination rates offered to access seekers in those undertakings are materially above the effective on-net rate.

The Commission considers that, following the MTAS Conference, access providers have sufficient information to submit informed revised undertakings, should they wish to do so. To further assist parties, the Commission will hold a public meeting with access providers wishing to submit revised undertakings on Friday 18 September 2009. This is a final opportunity to clarify any outstanding issues of substance and process with the Commission if required, and is not a further opportunity for access providers to make submissions to the Commission. Some of the Commission's preliminary views may be updated at the meeting, but the Commission notes that it cannot provide final views on any issues until the release of the final Report.

The Commission has received several requests from access providers to hold a workshop to resolve any differences in the terms between undertakings submitted by each access provider. The Commission is open to the idea of conducting a workshop to resolve minor outstanding issues, but considers that there would need to be a high degree of consistency on the major terms for providing MTAS, including price, before a workshop would be beneficial. The Commission will inform interested parties of its decision regarding a workshop after it has considered the submissions on the revised undertakings received.

Should you have any queries in relation to this letter or the MTAS investigation generally, please contact Shane Kinley on (04) 924 3686 or by email at shane.kinley@comcom.govt.nz.

Yours sincerely



Dr Ross Patterson

Telecommunications Commissioner