



## COMMERCE COMMISSION

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To all Interested Parties to the MTAS Investigation

### **Schedule 3 Investigation into MTAS – Treatment of Confidential Information**

In the course of the Commission's investigation under Schedule 3 of the Telecommunications Act 2001 into regulation of mobile termination access services (the **MTAS Investigation**), the Commission has received information from interested parties which those parties consider is confidential or otherwise sensitive. This letter sets out the Commission treatment of that confidential or sensitive information.

Protection of confidential or sensitive information in respect of the MTAS Investigation is governed by a confidentiality order (the **Order**) issued by the Commission under section 100 of the Commerce Act 1986 (as applied by section 15(i) of the Telecommunications Act 2001). A copy of the Order is available on the Commission's website.<sup>1</sup>

The Commission has received a large volume of information which parties have requested the Commission treat as having restricted information (**RI**) or Commission only information (**COI**) status, in accordance with the Order. Designation of information as RI or COI is a matter for the Commission. However, as a result of this volume of information the Commission has been unable to assess the merits of requests for RI or COI status in a timely manner.

Accordingly, the Commission wishes to inform all interested parties that, unless a particular request has been dealt with specifically by the Commission and has been notified to the relevant party or parties, the Commission will provisionally accept all requests for RI or COI status made in accordance with the terms of the Order. In the Commission's preliminary assessment, information has been provided to the Commission in good faith, and there is no *prima facie* evidence to suggest that protection has been requested in respect of information that is not of a confidential or sensitive nature. The Commission therefore considers it appropriate to accept such requests, so that interested parties can have some assurance that the Commission is taking a practical approach to issues of confidential information ahead of the release of the draft report for the MTAS Investigation.

The Commission also wishes to inform all interested parties that it reserves the right to review the status of any information granted RI or COI status, in accordance with the terms of the

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<sup>1</sup><http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/Investigations/MobiletoMobileTermination/ContentFiles/Documents/MTAS%20confidentiality%20order.pdf>

Order, if necessary or desirable for the purposes of the MTAS Investigation. In particular, the Commission wishes to ensure that it strikes the right balance between the interests of protecting confidential or sensitive information and interests of justice in ensuring that parties are appropriately informed of information relevant to the MTAS Investigation. The Commission intends to regularly reassess the status of information to ensure that the correct balance is struck, ahead of the release of the final report for the MTAS Investigation.

The Commission will also be reassessing information to ensure that confidential or sensitive information is treated in a consistent manner in respect of the MTAS Investigation.

Yours sincerely



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