

Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
PO Box 2351
WELLINGTON 6140

28 May 2008

By email: ross.patterson@comcom.govt.nz

RE: Mobile to Mobile Termination

Dear Ross,

I am writing in response to the Commission's letters on 8 May and 14 May 2008 regarding whether to commence a Schedule 3 investigation to subject mobile-to-mobile termination rates for both voice and SMS to regulation.

Orcon is very supportive of this investigation. There are significantly different retail prices between on-net and off-net mobile calling rates. This is a particularly high barrier to competition for any carrier entering the mobile market and for any carrier with a small market share. We are of the view that mobile termination rates for both voice and SMS are too high, constraining competition in both the mobile and fixed line markets. We commend the Commission for recognizing that MTRs are significantly above cost.

High MTRs are a barrier to competition for both mobile and fixed line markets. Fixed line carriers are moving to offer bundled services including mobile. The Commission should endeavor to also include Fixed to Mobile Termination Rates in its Schedule 3 Investigation. As the Commission notes in its letter; the average, median and 75th percentile rates are significantly lower than the 15 cpm rate that the Commission arrived at in the 2004 investigation into Mobile Termination. The type of network that is making the call does not affect the costs of terminating the call and hence the MTRs for both fixed and mobile calls should be the same.

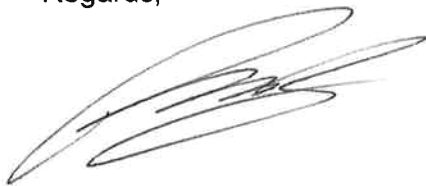
The market for fixed line services shows similar on-net/off-net pricing plans and promotions which are not conducive to a competitive telecommunications market. Vodafone is offering significant discounts on calls to Vodafone mobiles from its fixed line customers, well below the equivalent cost for other fixed line providers. A regulated fixed to mobile termination rate would significantly reduce this on-net/off-net price differential and allow smaller providers to compete on a more equivalent

basis. It is fundamental that this investigation also include Fixed to Mobile Termination Rates.

There are also a number of other investigations the Commission could commence. We also see the market for homelines as uncompetitive and believe the Commission may need to review a number of aspects in the LLU determination.

I look forward to Orcon contributing to the investigation through submissions and the regulatory process.

Regards,

A handwritten signature in black ink, appearing to read "Scott Bartlett". The signature is fluid and somewhat abstract, with several overlapping loops and a long horizontal stroke at the end.

Scott Bartlett
Orcon Chief Executive