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Dr Ross Patterson
 Telecommunications Commissioner
 Commerce Commission
 44-52 The Terrace
 Wellington

Dear Ross

Aligning the industry’s mobile termination rate undertakings

On 2 October 2009 Telecom, Vodafone and 2 Degrees submitted revised mobile termination rate undertakings. The Commission has indicated that it may hold a workshop to explore and facilitate alignment between these undertakings in an effort to identify a common industry undertaking that could operate as an alternative to costly and delayed regulation.

Telecom has taken an active lead within the industry on this matter, and continues to favour an industry-defined undertaking over regulation. We have reviewed the revised undertakings and submissions received by the Commission, and we remain confident that this path can still produce a successful outcome.

To ensure progress continues towards this goal, we set out below our current views on what an aligned undertaking might look like.

Price terms

As foreshadowed in our most recent submission, we are willing to commit to an aligned undertaking that takes the lowest prices in every year covered by both the Telecom and Vodafone revised undertakings – converted to a second + second charging structure – and an improved position on out of balance SMS tariffs to apply in a hybrid bill and keep charging structure.

This results in the following rates:

Date from	Telecom	Vodafone Adjusted¹	New proposed rates
1 Jan 2010	12 m+s	15 m+s	12 m+s
1 July 2010	12 s+s	14.76 s+s (April)	12 s+s (April)
1 Jan 2011	10 s+s	12.92 s+s	10 s+s
1 Jan 2012	9 s+s	11.07 s+s	9 s+s
1 Jan 2013	8 s+s	8.61 s+s	8 s+s
1 Jan 2014	7 s+s	6.15 s+s	6 s+s
SMS	B+K (hybrid) Overage @ 7% = 3cpt, @ 12% = 8cpt	1.2 cpt	B+K (hybrid) Overage @ 7% = 2cpt, @ 12% = 4cpt

¹ The “Vodafone Adjusted” column converts Vodafone’s MTRs beyond the first period to a second + second basis for comparison with the MTRs from Telecom.

There are four structural issues separating Vodafone's revised undertaking from those of Telecom and 2 Degrees. We comment on each below, but remain willing to discuss these issues further at any Commission workshop.

First, Vodafone's undertaking is provided on a minute + second basis. Consistent with the guidance given already by the Commission in this process, we understand it is unlikely this charging structure would be acceptable to the Commission.

Second, Vodafone's undertaking is provided for a six-year term. As a timeframe of greater than five years has not been explored in the process to date, we do not consider it helpful to look beyond the five year term at this stage.

Third, Vodafone's proposed mobile termination rates do not commence until 1 April 2010 which we understand aligns with the Vodafone financial year. Telecom does not consider that a three month delay in the context of a 5 year undertaking is material, and would support an April 2010 start if this is necessary to get alignment from Vodafone to a stable, long-term industry outcome.

And finally, Vodafone's Undertaking does not appear to explicitly cover internationally-originated traffic. Agreement on the appropriate treatment for these call types will need to be agreed.

Non-price terms

It is our view that, based on the current sets of non-price terms proposed by the parties, alignment of non-price terms should not present a significant hurdle to an industry-based outcome. We intend to engage directly with Vodafone and 2 Degrees to address key remaining inconsistencies between the proposed non-price terms as soon as possible.

Yours sincerely



John Wesley-Smith
General Manager
Industry & Regulatory Affairs