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Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
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WELLINGTON

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

Dear Ross

MTAS - Process to Achieve Reciprocity of Undertakings

This letter responds to the Commerce Commission's letter dated 9 November 2009, inviting parties to the MTAS investigation to comment on the Commission's proposals to achieve an alignment of the Undertakings submitted to date.

We agree to participate in the Commission's proposed process to achieve alignment amongst the parties. We expect to be able to make good progress on the non-price terms. However, we are uncertain as to how far industry can go toward resolving price terms, without the Commission present to broker those discussions on a co-regulatory basis.

Telecom's commitment to achieve a solution driven by Undertakings

Telecom remains committed to achieving a pragmatic, Undertakings-driven solution to the various issues surrounding mobile termination. Such an outcome has the potential to remove much of the uncertainty, time and cost from the regulatory process for all parties.

We also agree with the Commission's conclusion that, in order to arrive at an Undertakings based solution, there needs to be an alignment of the Undertakings, at the very least between Telecom and Vodafone.

Telecom's understanding of the key process issues from the Commission's perspective

Our understanding of the Commission's letter is that there are two matters of process that are particularly important for parties to follow:

- (1) **Three-way Dialogue:** Engagement is to be between Telecom, Vodafone and 2Degrees (*Access Providers*), rather than, say, engagement between Telecom and Vodafone only; and
- (2) **Regard to Access Seeker concerns:** the Access Providers are asked to have regard to the issues raised by Access Seekers in submissions on the MTAS process when agreeing terms.

If this understanding is incorrect, or incomplete, we would be grateful if you would advise us accordingly.

Discussion of non-price terms

Initially, we propose to seek agreement on non-price terms with other Access Providers. There is already a substantial alignment of non-price terms and we believe that an agreed approach to residual issues is potentially achievable.

Further, agreed non-price terms could be brought into play whether there is an Undertakings solution or a regulated outcome. The parties should agree non-price terms where possible irrespective of the outcome of price related discussions.

Lastly, we agree with the Commission's position, as we understand it, that it is not a concern if there are differences in the Undertaking documents submitted by the Access Providers so long as there is common agreement between the Access Providers as to the essence of the key non-price terms and effect is given to this in the Undertakings.

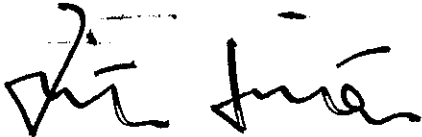
Discussion of price terms

Given the stated position of the parties, we suspect that further Commission guidance will be required for the Access Providers to reach a common position on price terms in the form of a workshop.

However, we will seek to explore common ground, take those conversations as far as they can go and report back on 20 November, as the Commission has requested.

Finally, we would like to thank the Commission for its helpful statements that it does not consider engagement between Access Providers on price to raise concerns under Part 2 of the Commerce Act 1986.

Yours sincerely



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