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11 November 2009

Dr Ross Patterson  
Telecommunications Commissioner  
Commerce Commission  
WELLINGTON

Dear Ross,

**Re: Process to address reciprocity issues in relation to revised MTAS undertakings**

Thank you for your letter of 9 November. I can confirm that Vodafone is willing to engage as requested in discussions with Telecom and 2degrees to attempt to align the terms of our various Undertakings before 20 November. We continue to believe that an Undertaking will provide a quicker and more certain resolution of the Commission's MTAS concerns than a lengthy, costly, and contentious regulatory price-setting process.

That said, the Commission should not take our consent to engage in these discussions as an endorsement of the Commission's process or the analysis or conclusions in its Draft Report. The Commission will be well aware that we have real concerns about the MTAS process and we disagree with its analysis and conclusions on key points. In particular, as we have stated many times in submissions and at the Conference, we hold the view that the Commission's approach to benchmarking to estimate the cost of MTAS in New Zealand is not consistent with the approach of a reasonable regulator.

Although we are happy to engage with Telecom and 2degrees as requested, we do have some concerns about this process:

- First, we cannot deliver revised Undertaking documents immediately even if we reach agreement on their terms with the other operators. The process of drafting and finalising the documents will take some additional time. The Commission seems to recognise this point by stating in its letter that there may be a period after the 20<sup>th</sup> to submit revised documents.

The Commission is no doubt aware that the form of Telecom's Undertaking is substantially different from that of Vodafone and 2degrees. It will likely also be aware that there are often small differences between operators' interconnection terms. For example, we have had differences in pricing between operators in some cases, and there are non-price terms that vary between agreements without this being a major issue.

- Second, although we will engage in good faith with both parties and we expect to be able to reach agreement on all or almost all of the non-price terms, we may not be able to secure industry-wide agreement on price issues given the significant gulf

between the expectations of 2degrees and the two other operators. In our view, this is not a cause for any Commission concern. 2degrees has access to [ ] VNZAPI rates in our interconnection arrangement with them, and they are [ ] VNZAPI. Clearly termination rates are not preventing them from competing in the retail market. 2degrees would have the choice to move to the Undertaking terms at its leisure should it not wish to match the rates proposed in any alignment between Vodafone and Telecom.

The differences between the prices proposed by Telecom and those proposed by Vodafone are not large. Telecom's price path starts lower but then declines only slowly thereafter. Our proposal starts with a sharp 20% cut in voice MTRs and then declines more steeply than Telecom over time. We consider our price path is preferable to that of Telecom for three reasons:

- Our voice rates are lower at the end of the Undertaking period even than the Commission's benchmarks for future costs. At three cents per minute for voice, we are proposing rates that are substantially below even the most aggressive expectations of the EC for cost-based prices in Europe. This should mean that we do not have to reopen the issue of MTRs for at least five years, delivering certainty for all and saving the industry, and therefore our customers, enormous time and cost.
- Our rates involve a glidepath down over time. The termination rates we have proposed involve cutting our revenues by more than \$400m over five years relative to current rates. As we have submitted, we expect there to be changes in retail offers for different customer groups as falling termination rates alter the profitability of existing offerings. A glidepath is best regulatory practice internationally as regulators have recognised the need to give customers and operators time to adjust to the lower MTR environment.
- On SMS, we are offering an immediate 87% cut in prices down to 1.2 cpt a year. This reduction happens a year earlier than any regulation could achieve, and without the uncertainties and complexities of moving to any form of bill and keep, as proposed by Telecom and 2degrees.

The Commission made clear at the Conference that MTRs should not be above 41% of the average on-net retail voice price for the industry. Our initial 12 cpm rate is consistent with our measures of what we expect average on-net retail voice prices will be during 2010. [ ]

]. VNZAPI

If you would like to discuss anything in this letter I can be contacted by telephone on 021 689 176 or via email at [hayden.glass@vodafone.com](mailto:hayden.glass@vodafone.com).

Yours sincerely,

Hayden Glass  
Public Policy