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29 June 2009

Shane Kinley
Senior Analyst
Telecommunications Branch
Commerce Commission

By e-mail: shane.kinley@comcom.govt.nz

Dear Shane

RE Vodafone/2degrees interconnection agreement

I refer to your email of today's date in relation to the confidentiality status of the 2008 mobile termination interconnection agreement (**ICA**) entered into between Vodafone and 2degrees. Vodafone and 2degrees both agreed to provide this agreement to the Commerce Commission (**Commission**) on a confidential basis on 8 October 2008.

In your e-mail, you ask for both Vodafone and 2degrees to confirm the status that we consider the commercial interconnection agreement should have in accordance with the confidentiality order developed for the purposes of the Commission's Schedule 3 Investigation into mobile termination access services (MTAS). You also ask that we do this with reference to the relevant clauses under which protection is being claimed.

Under clause 21 of the ICA, neither party may disclose confidential information without the prior written consent of the other party. However, there is an exception for limited disclosure to the Commission under clause 21.3.

Given the importance of the price terms contained in the ICA to the Commission's consideration of the rates likely to apply for mobile termination in the absence of regulation, and the public's perception of the actual rates that are being charged for mobile-to-mobile termination of both voice and SMS services in New Zealand, Vodafone believes it is important that the Commission be able to publicly disclose the details of the price terms contained in the ICA.

As indicated above, however, Vodafone notes that under the terms of our agreement with 2degrees, neither party is able to publicly disclose the contents of the ICA without the other party's written consent. We have previously invited 2degrees to provide its consent to the public disclosure of the

price terms contained in the ICA both in last year's mobile co-location standard terms determination public conference and in last week's 10th Annual Telecommunications and ICT Summit. To date, however, 2degrees has not agreed to public disclosure of these terms.

Vodafone has also sought to make phone contact with 2degrees to discuss this in response to your e-mail of today's date, but in the time available has not been able to discuss this matter with it.

If 2degrees will not consent to the public disclosure of the ICA, the alternative is that the ICA be given either Restricted Information or Commission Only Information status. We believe it would be appropriate for the Commission to treat the price terms contained in the ICA as Restricted Information rather than Commission Only Information. While the information is commercially sensitive, we see no reason why it should not be made available to the external advisors of other parties to this investigation that have signed up to the Commission's confidentiality regime for the purposes of the Commission's Schedule 3 investigation into mobile termination access services.

Should you have any queries in relation to this matter, please feel free to contact me.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Richard York', is positioned above the printed name.

Richard York
Regulatory Manager