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28 November 2008

Mr Tom Forster
Telecommunications Branch
Commerce Commission
PO Box 2351
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By e-mail: telco@comcom.govt.nz

Dear Mr Forster

Consultation on Commission's Sector Monitoring

Thank you for your letter dated 4 November 2008 seeking feedback on the Commission's approach to sector monitoring. We appreciate the Commission taking time to evaluate its approach to this function. Given that the Commission's view is seen by media and, through reporting, the general public as the authoritative view on Telecommunications, there is a strong requirement on the Commission to ensure that both fact and analysis contained in the reports are robust.

Vodafone's overarching view is that the TCF's Information Reporting Working Party is the best forum in which to discuss industry information requirements. We encourage the Commission to continue working with the Working party on these issues.

1. Are the Commission's key statistics quarterly monitoring reports useful?

The reports are useful for giving an overview of trends in the market. The 'Quarter in Review' section is useful as a record of major market initiatives.

- a. Is the OECD benchmarking useful?

The OECD benchmarking is limited in its usefulness for two major reasons. In the fixed line area, the benchmarking is so badly distorted by TSO requirements for 'free' local calling that the rankings are essentially meaningless. In mobile benchmarking, the Commission's approach to OECD data has been confusing and has meant that in some reports the Commission is benchmarking the second cheapest plans in New Zealand against the cheapest plans in other jurisdictions. If the Commission has concerns about particular plans, it should express those alongside the data rather than remove them from the data altogether. There is also a lack of clarity around the Commission's approach to when it considers a plan appropriate for benchmarking. If the Commission has a set of criteria for

considering whether or not plans should be benchmarked, it should provide this to carriers so there can be some discussion on whether those criteria are suitable when used in conjunction with the criteria used by Teligen.

Given a greater number of service providers will be offering mobile services in the future, it may be timely to discuss whether the Commission intends to benchmark plans from those carriers. Given the Commission has previously expressed concerns about restrictive terms and conditions contained in some offers, there should be some clarity on the treatment of plans such as those offered by TelstraClear that have the very restrictive condition of having to have a landline connection as part of the package.

- b. Is the reporting of Telecom data useful?

Information on DSL connections and Telecom's share of growth is useful for tracking the rapidly developing broadband market.

- c. Should the Commission try to get quarterly industry data from parties in addition to Telecom?

No.

- d. Would it be better to report more comprehensive industry data (if possible) but on a less frequent basis?

Any more comprehensive data should be gathered annually.

- e. What information in the quarterly reports would you like to see presented differently and why?

Please see above comments on OECD benchmarking.

- f. What other information would you like to see included in the quarterly reports and why?

Information on progress being made with Telecom's fibre to the node rollout plans could be useful as these have a significant impact on speeds offered in a given area. Aggregated numbers of unbundled loops could also be a useful indicator of competitiveness in the fixed line market.

- g. What information do you think should be removed from the quarterly reports and why?

We do not see any need to remove information.

2. Was the Commission's 2007 telecommunications market monitoring report useful?

It contained a considerable amount of useful data. Vodafone was concerned by the inclusion of the Epiro Broadband performance data in the report as it had not been the subject of adequate industry consultation at that time.

- a. What information in the annual report would you like to see presented differently and why?

The information presented in the report is generally acceptable. Vodafone is, however, concerned that analysis of the information may not be able to be done in enough depth in the context of the reports, and therefore runs the risk of appearing unbalanced. Unlike, for example, a market analysis in an Issues Paper for a potential Schedule 3 Investigation, there is not a process for responding to the contentions made in the annual report.

The comments contained in paragraphs 96 to 102 in the first Annual Report are good examples of brevity leading to a lack of balance. For example, paragraph 99 deals with the impact of on-net pricing for new entrants but provides no evidence to support the assertions it makes. Vodafone's experience of European markets suggest the assertions are incorrect.

The Commission went on to note mobile termination rates (MTRs) set in Australia and gave one estimate of the cost of terminating voice and SMS from one cost model. It did not acknowledge the considerable work it had done over the previous two years on mobile termination rates, and did not note that during the MTR process it had considered 15 cpm to be an appropriate cost-based factual for terminating a call on a New Zealand mobile network. Nor did it mention the termination rates set in any other OECD countries. Due to a lack of space it chose to quote a narrow range of data and therefore left the reader with an impression about the relative level of MTRs in New Zealand. It might equally have noted the MTRs in New Zealand are less than those in the Netherlands (a top performer in the OECD rankings) or in line with most of those in Western Europe which is characterised by intensely competitive markets.

In summary, given that space is limited in Annual Reports it may be preferable not to attempt to undertake such market analyses. That type of work may be better left for Issues papers and similar analyses undertaken to establish whether regulatory intervention might be desirable.

- b. What additional information would you like to see included in future annual reports and why?

We do not consider more data is required.

- c. What information do you think should be removed from future annual report and why?
See above points on accompanying analytical work.

3. Do you support the Commission using an annual industry survey (which is generally supported by the TCF) to collect much of the aggregate industry data not already disclosed by Telecom?

This should be subject to discussion with the TCF Information Reporting Working Party.

- a. Once respondents have systems set up to extract the required data, would it be relatively easy and cheap for respondents to provide the data more often than annually?

Not necessarily.

- b. Would it be better to have Statistics NZ collect industry statistics if this was able to be organised?

This may create a risk for carriers that the Commission is more likely to request information for other purposes that carriers have already had to provide to Statistics New Zealand. If Statistics NZ was to collect data, there would need to be discussion between carriers, the Commission and Statistics NZ to ensure cost for carriers were not increased by potential duplication of requests and a balance is struck to ensure that information provided for one purpose is not used for a different purpose.

- c. Are there other ways of collecting industry information that the Commission should consider, and what are they?

N/A

4. It has been proposed that the Commission construct consumption baskets for New Zealand usage of fixed and mobile phone services, and use these to compare New Zealand prices to those in other countries. This would be additional to rather than in place of OECD benchmarking. Do you support such a proposal, and what suggestions do you have for progressing it?

The proposal has merit. Vodafone has long held concerns that the calling baskets used by the OECD are not reflective of New Zealanders' calling patterns. We would be happy to work with the Commissions either directly, or through the TCF Information Reporting Working Party, to find some agreed usage baskets and use the resulting data to supplement current OECD ranking data.

Thank you for the opportunity to respond. Should you have any questions please contact me on 021 882 429 or by email at richard.york@vodafone.co.nz.

Yours sincerely



Richard York
Regulatory Manager