

COMMERCE COMMISSION

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30 April 2008

Tom Chignell  
GM – Corporate Affairs  
Vodafone New Zealand Ltd  
Private Bag 92161  
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CC: Minister for Communications and Information Technology

Dear Tom

### **Commission's First Annual Monitoring Report**

I am writing in response to your letter of 15 April in which you expressed Vodafone's concern about the way the Commission has used some of the data reported in its annual monitoring report.

As you know, the Commission's report relies on more than OECD benchmarking. The report notes that benchmarking is one indicator of the competitiveness of retail markets, and where possible the Commission also reviews the average price of telecommunications services. As part of the process of reaching its conclusions, the Commission estimated Vodafone NZ's mobile revenue per minute and found that it had fallen over the 2007 year to a similar level to Vodafone's major European operators. It was noted in a Vodafone media release of 10 April that, "The Commission acknowledges that mobiles prices are falling ...".

The report also noted that that some of Vodafone's new plans offer good value to customers, but cannot be effectively benchmarked using the OECD benchmarking process because they are based on allowing cheap on-net calls to a small number of nominated subscribers.

The Commission excluded Vodafone's You Choose Base Plans from the OECD benchmarking data because during the period under consideration these plans had a plethora of restrictive conditions that, in the Commission's view, made them unique to New Zealand and unlikely to have attracted a significant number of customers.

'No frills' mobile plans, such as the You Choose Base Plans, are not a new concept and are available in many other countries. These sometimes become the benchmarked plan for OECD benchmarking- an example is the SIM Only plan offered by Vodafone in the Netherlands. The customer purchases the SIM only, so needs a handset, and gets a generous amount of minutes for a fixed monthly charge. More minutes are given if the customer signs up for two years. However, the Commission was unable to find any evidence of 'no frills' mobile plans with the number of restrictive conditions that the You Choose Base Plans had in 2007.

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Vodafone is an international operator with presence in a number of OECD markets. The Commission invited Vodafone to provide the Commission with evidence of plans in other OECD countries with terms and conditions as restrictive as the Vodafone You Choose Base Plans, but Vodafone chose not to, or was unable to, do so. The Commission also requested Vodafone to disclose the number of customers on these plans but this request was refused.

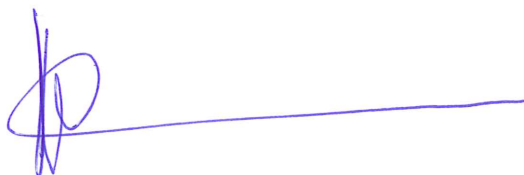
The annual monitoring report noted the restrictive conditions of the Base plans were eased by the end of 2007, and that the Commission would consider using the results of the Base plans in its monitoring for the 2008 year. As part of the 2008 monitoring process, the Commission has been visiting Vodafone outlets and asked for details of the cheapest on account plan available. In no case was the You Choose Base plan promoted or advertised in store, nor was it referred to in conversations with staff. A Commission staff member then visited a CBD based Vodafone shop, and asked specifically about the You Choose Base plans. He was told that while there are such plans, they are not advertised and that the salesperson had never sold one. The salesperson advised that he had never received training on the Base plans, and had to ring the Vodafone's Helpdesk for assistance in explaining the Base plans and found the Helpdesk was also unfamiliar with the Base plans. On this basis, and in light of Vodafone's refusal to disclose to the Commission the number of customers on the Base plans, the Commission intends to continue to exclude the Base Plans from its 2008 monitoring reports.

The other concern raised in the letter concerned the Commission's termination rate comparisons. Vodafone is incorrect in stating that the Commission's last official view on what an appropriate termination rate might be was in its Mobile Termination Reconsideration Final Report. The Commission updated its mobile termination rate benchmarking for its Mobile Roaming Final Report. Using a 10 year average exchange rate to compare cost-based termination rates, the Commission calculated an average rate of 9.5 cpm, a median rate of 10.8 cpm and a 75<sup>th</sup> percentile rate of 11.6 cpm. All these rates are significantly lower than the 15 cpm rate that was quoted in your letter.

The Commission acknowledges that there are many factors that influence the cost of mobile termination in various jurisdictions, but these do not indicate that the cost of mobile termination in New Zealand is necessarily higher than the cost in Australia or the UK.

In conclusion, the Commission stands by the conclusions of its annual monitoring report on the mobile market in New Zealand.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal line extending to the right.

Dr Ross Patterson  
Telecommunications Commissioner