

30 October 2009

Telecommunications Branch
Commerce Commission
Wellington



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To whom it may concern:

Consultation on the non-discrimination and EOI obligations under the Telecom separation undertakings requirements with respect to the complaints concerning the Telecom wholesale loyalty offers

InternetNZ welcomes the Commission's consultation on the above matter, though notes that a timeframe of two weeks for submissions is short.

InternetNZ agrees with the Commission's views as expressed in the consultation document, and does not agree with Telecom's apparent interpretation of the non-discrimination and EOI requirements set out in the operational separation framework.

Operational separation was designed to deliver changed behaviour on Telecom's part by reducing its ability and incentive to discriminate between access seekers, or between access seekers and Telecom's own retail operations.

Operational separation cannot deliver if Telecom's interpretation of these equivalence requirements is upheld.

The Commission's interpretation, reinforcing the conclusions of the Independent Oversight Group, is the one that is consistent with our understanding both of the broader policy aims underlying the 2006 reforms to the Telecommunications Act (of which operational separation was a key component), and the letter and the spirit of the obligations set out in the Undertakings.

InternetNZ is available to provide more information in support of this view should that be of assistance to the Commission.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Jordan Carter".

Jordan Carter
Deputy Executive Director