

NZ COMMUNICATIONS LIMITED



**Review of the Final Agreement at the Mobile Co-Location Working party
Meeting 28th March 2008**

VERSION DATE

1.4

20th May 2008

SUMMARY

1. NZCL participated in the TCF mobile Co location working party meeting during March 2008; the meetings were well organised & chaired. They were designed as a forum to capture the list of issues that the industry could easily decide on to minimise subsequent regulatory activity by the Commerce Commission.
2. The negotiating dynamics were 2 access providers negotiating in 3 work groups with one access seeker who occasionally was joined by 2 smaller potential access seekers (but who weren't building networks nor had any investment in current roll outs). They were spectrum owners contemplating roll outs of networks. The 2 access providers had a team of over 30 executives whilst the access seeker had a team of 5 people .
3. The objective of the negotiations which took place over 4 weeks was to decide on common ground submit to the Commerce Commission the agreed Co location positions to reduce the amount of work at the Commission .
4. NZ Communications has subsequently reviewed the document recording the output of this working party called "Recommendations for Final Agreement at the Mobile Co location working party Meeting " it notes the following
 - (a) NZCL felt it was constructive to work with the TCF working party to attempt to deal with issues that could be agreed on so as to shrink the volume of work that the Commerce Commission would have to do to guide the industry to a workable co location protocol. Unfortunately despite a well organised process and a large volume of attendees from the access providers, there was no significant agreement on any major issues. We feel the Mobile Co location working party minutes would have been well served by having a summary of un-agreed points, rather than trying to emphasise what had been agreed.
 - (b) Our other observations were. There were no quorums or attendance records of the input of Kordia or Woosh , but it is instructive that they were resource constrained were unable to attend all the workgroups ;
 - (c) Because telecommunications is a network industry with a large degree of interplay, we believe there is a problem recording partially agreed solutions because too much is left open to interpretation. During the drafting of the relevant STP Vodafone have been able to interpret decisions and the persona of the TCF meetings liberally. It is our belief that some parts of the Vodafone submission are misleading (See appendix 5 – Vodafone STP submission for comment) ;
 - (d) Given the absolute volume of reading and submitted material for the NZ mobile co location regulatory process NZCL are concerned that inevitable speed reading of the Vodafone Submissions or the TCF report create a misleading and somewhat false picture about the level or unanimous agreement on the critical issue of Co location .
 - (e) NZCL's position is the definitions are incomplete, and the document doesn't record the large amount of additional definitions NZCL wanted to submit or have recorded.
 - (f) The Mobile Co location service description is immaterial because its incomplete
 - (g) The General Terms (and Access terms) principles , have so much missing and left out that its misleading to state that its ("*As agreed by the mobile working party meeting on the 28th March 08*") the issue for NZCL is that it did not agree General Terms because they were incomplete. The Mobile Co location service description loses its effectiveness because its incomplete

- (h) Interference management & design principles, This section of the document carries the statement of “*as agreed at the working party meeting on 28th March 2008*”. Here there were several points of general housekeeping that were agreed, but, in the context of the issues on the table there was a complete stalemate on these significant issues with only minutia trivia agreed. There is more statements in brackets *which actually means disagreed*, but as a speed reader digesting literally thousands of pages this could easily be forgotten and NZCL is concerned that there may be mis-interpretation of the outcome of the TCF Mobile Working Party .
- (i) We note the protocol for on going interference management (not one statement is agreed)
- (j) We note detailed site design page 31 of the TCF report – this procedure has no relevance to Rapid multi access.
- (k) Whilst NZCL remains supportive of the TCF, and its role in the industry we can’t on this occasion support unequivocally the outcome of the mobile co location working party. Our position is partial agreements are dangerous and confusing.
- (l) A noteworthy frustration was the failure to record the negotiation dynamics of the last few hours of the TCF working party or for the report to have a summary list of what was discussed and couldn’t be agreed.
1. The last few hours of the negotiating summary was characterised by a bad faith veto threat by Telecom to withdraw all the minutes of the positions that had not favoured them in interference management. Whilst all parties had made compromises, to facilitate a solution, at the last minute Telecom wanted to withdraw the minutes on everything that had not favoured them. This dynamic and threat spoiled the sense of reasonableness that had existed until then during the TCF workshops.
 2. The failure for the TCF to publish a summary list of major un-agreed items is misleading because the tone of the report and subsequent Vodafone submission suggest that the industry is almost 80% in agreement. NZCL would contend that less than 20% of the items are agreed.

NZ Communications Ltd list of major unresolved issues

.NO	ISSUE
1	STANDARD CELL TOWER TYPES
2	DATABASES
3	REQUIREMENT TO USE ANTENNA MINIMISATION TECHNOLOGY
4	REQUIREMENT TO ACCEPT A LEVEL OF DEGRADATION
5	REQUIREMENT TO SET TARGETS
6	REQUIREMENTS TO SET PENALTIES
7	VERTICAL VERSUS HORIZONTAL SEPARATION
8	RAPID MULTI ACCESS APPROVAL SYSTEMS
9	REQUIREMENT TO REASONABLY ASSIST WITH LANDLORDS AND RMA