

59 Abilene Crescent  
Churton Park  
Wellington 6037

30<sup>th</sup> August 2008

Mr. Bruce Officer  
Chief Adviser  
Telecommunications Branch  
Commerce Commission  
Wellington.

Dear Bruce

**Commerce Commission Draft STD**

Thank you for allowing me, on behalf of a group of residents in the Churton Park community, to file a submission at this time in your consideration of the draft Standard Terms Determination around mobile sites.

I have developed the submission in two parts. The first is a more general submission on the benefits of an active policy on sharing mobile phone sites between providers. The second portion touches on some of the items raised in the submissions already filed with the Commerce Commission and which are currently offered for Cross Submissions.

The submission is made on behalf of eight families<sup>1</sup> who reside near to the intersection of Abilene Crescent and Furlong Crescent in Churton Park.

The primary point of contact is :

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Yours sincerely

Cam Ronald

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<sup>1</sup> 1,3,9 and 10 Furlong Crescent, 52, 57, 29 and 63 Abilene Crescent

**SUBMISSION BY CAM RONALD AND SIX OTHERS TO THE COMMERCE COMMISSION ON DRAFT  
STANDARD TERMS DETERMINATION FOR THE CO-LOCATION ON CELLULAR MOBILE  
TRANSMISSION SITES SERVICE**

**General Submission in respect of a proposed NZCL mast in Churton Park.**

- 1 Proposed NZCL mast on Churton Park at the intersection with Abilene Crescent and Furlong Crescent, Churton Park, Wellington
  - a. New Zealand Communications Ltd (NZCL) have sought and been granted a resource consent by the Wellington City Council to install two equipment cabinets on the roadside reserve adjacent to the Churton Park Reserve in Churton Park.
  - b. A 15 metre high transmission mast, which does not require consent, is proposed to replace an existing 6 metre street light. The equipment cabinets form part of the overall installation.
- 2 Existing Vodafone mast in Abilene Crescent
  - a. Vodafone New Zealand installed a cellphone mast and two cabinets in Abilene Crescent at the intersection with Silverton Grove about 12 months ago.
  - b. The Vodafone mast is only four residential sections away from the proposed NZCL site, a distance of about 120 metres.
- 3 Churton Park is an affluent suburb with above average to high property values. All existing services are under ground. The centre of the suburb is the Churton Park Reserve.
- 4 The residents in the vicinity of the NZCL proposal have contested the need for a second mast, rather than co-location with Vodafone.
- 5 They have also raised objections to the proposal being in the centre of the southern access way to the Churton Park Reserve.
- 6 The existing Vodafone mast and the proposed NZCL mast are both on the roadside reserve verge which extends in to the park itself.
- 7 The visual pollution and the inconvenience posed by the proposed NZCL mast (and to a lesser degree by the Vodafone mast) are significant as the park is heavily by local residents and as a sporting venue.
- 8 To have two masts within such close proximity borders on the farcical. Some flippantly refer to these masts being side by side potentially as "Goal Posts."

- 9 The residents have been informed by NZCL that a proposal to co locate with Vodafone on their mast has not been agreed to by Vodafone. We are not aware of the full context of the discussions but it appears that there are issues about the capacity of the Vodafone mast and possible interference issues. We note that these issues are discussed in great detail in submissions already made to the Commerce Commission over the proposed STD.
- 10 The residents have proposed to NZCL other sites in the Churton Park area where a mast could be installed without the adverse impact but these have not been adopted by NZCL. There are many potential sites on the hillside above Churton Park which have greater coverage, and are much less of an eyesore, but which might require provision of power supply to them. The present installation of masts (both Vodafone and the proposed NZCL structure) is being achieved by the replacement of existing roadside light poles which is somewhat cynical, in our view. The size, height and visible impact of the mast and especially the accompanying equipment boxes are significant, when compared to the relatively unobtrusive street lights.
- 11 It is our strong contention, and therefore our strong submission to this process within the Commerce Commission process around the STD, that the situation developing in Churton Park is the very one which the STD seeks to minimise or to overcome. If a case study is required, then this is example (which appears absurd) is offered.
- 12 While the aim of the STD, as detailed in the Commerce Commission Draft STD of 25 July 2008 <sup>1</sup>, is “co-location helps reduce network infrastructure costs” ...”by providing for the sharing of network infrastructure” is a key factor, we would submit that secondary and perhaps equally important consideration is developed around the costs to property values and to the enjoyment of the local environment.
- 13 The potential adverse costs to the householders who own property near to a communications mast, through the potential reduction in house values, is significant.
- a. If such an adverse cost is a result in each case where an installation of a mast occurs, then the aggregated cost across all of New Zealand through the loss in property values would potentially far exceed the identified “network infrastructure costs.”
  - b. Advice from the main real estate firm in Churton Park is that the existence of a network mast and cabinets immediately adjacent to a house which is on the market is a potential deterrent for buyers. They either by pass the property, or they use it as part of the price negotiation process to drive the value down when compared with another similar house but which does not have such a location at its doorstep.

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<sup>1</sup> Draft STD, Executive Summary, clause (ii), Commerce Commission, 25 July 2008

- 14 The potential adverse impact on users of reserve, such as the Churton Park Reserve, is also significant. This cost is more esoteric but this does not make it any less significant.
- a. One of the reasons that residents in Churton Park choose the suburb is because of the open nature of the area and the general sense of open space achieved in the rolling hills and the views to the north of Wellington.
  - b. The Churton Park itself is a busy one and it is extensively used by residents, their children and by sporting groups.
  - c. The imposition of not one, but potentially two or more masts should 3G create “greater demand for cell sites”<sup>2</sup> around the edge of the park is a severe loss of enjoyment.
- 15 We note, and will refer to in the second part of the submission, the proposals within the STD which would allow for a mast to be extended or enhanced in a co-location process, so as to overcome any current restrictions in co-location of facilities.
- 16 In concluding this portion of the submission, we contend that the proposed NZCL mast at the intersection of Furlong Crescent and Abilene Crescent in Churton Park is an ideal instance for co-location on the existing Vodafone facility only 120 metres away.

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<sup>2</sup> NZCL STD submission, page 24, 22 August 2008

## Cross submission on the Commerce Commission's draft Mobile Co-location Standard terms

### Determination

- 1 In making this part of the submission we do not seek to enter in to the technical aspects of the earlier submissions, but rather to identify areas within the submissions which might be considered in any co-location discussion by a community which faces the prospect of a telecommunications mast being erected, rather than sharing existing resources through co-location with another provider.
- 2 We note the aim in the draft STD the principle that "scarce resources are appropriately used"<sup>3</sup> and we would invite the Commission in determining the draft STD to extend their vision to include the overall span of resources beyond those of the technical aspects of the provision of telecommunications services. The resources in any community, such as roads, walkways, reserves, and open space all come at a cost. To harm these and to minimise the benefits of these through unnecessary visual pollution from telecommunications masts is not, in our view "an appropriate use of scarce resources."
- 3 The NZCL submission makes a comparison to the "local loop unbundling" process which has recently been achieved. NZCL suggest that "a similar exercise to regulate co-location is therefore in our view essential in the interests of facilitating mobile competition and bringing much needed benefits to mobile users"<sup>4</sup>
  - a. We support this analogy, but we would extend the potential benefits proposed by NZCL, to also include residents in the vicinity of telecommunications masts and other facilities which could be shared through co-location under the STD.
- 4 We also note and support the comment that "performance penalties should be meaningful, to reflect the adverse impacts on competition and consumer benefits resulting from delays in facilitation mobile co-location."<sup>5</sup> In our recent experience around the proposed NZCL mast and our discussions with service providers, city council staff, and central and local government politicians, there is a general sense that existing service providers are "dragging their feet around co-location". An effective penalty regime would, in our view, tend to encourage co-location rather than delay or obstruct this occurring.
- 5 The Vodafone Submission - Main Submission refers to the risk of degradation in coverage through co-location and develops statistics based on a reduction in emergency call capability.<sup>6</sup>

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<sup>3</sup> Commerce Commission draft STD, para 36, 25 July 2008

<sup>4</sup> NZCL submission to STD, 22 August 2008.

<sup>5</sup> *ibid*

<sup>6</sup> Vodafone Main Submission, para 6

Without attempting to analyze this on a technical basis, we would warn against extending this submission too far when considering all co-locations. We would presume there is a great variation between service provisions in remote locations, when compared to a built up area. For instance the co-location on to the Vodafone site in Churton Park would have no such adverse impact as there is already strong coverage from the Porirua site across much of Churton Park. The Porirua site is about 7 kilometers away and provides a strong signal across a wide area. We anticipate that this would apply across much of New Zealand.

- 6 We note in both the Vodafone submission (para 80) and in the Telecom submission (para 18) that they discuss the merits, and otherwise, of “mast replacement” where the issue of interference or lack of space on an existing mast occurs. We refer this back to the first part of our submission, and note:
  - a. In the NZCL proposal for Abilene Crescent when they approached Vodafone over co-location at the existing mast only some 120 metres away, and which we understood may have been unacceptable to Vodafone because of a lack of capacity on their mast, then this principle when applied would be the solution.
  - b. NZCL are of course faced with the cost of erecting a mast on their proposed site. This cost would benefit both NZCL and Vodafone, and potentially future providers, if the existing Vodafone mast was replaced by NZCL as part of the co-location arrangement. This would directly meet the aims of the STD.
  - c. We therefore warmly welcome this approach by both Vodafone and by Telecom.