

DETAILED SUBMISSION ON THE SERVICE LEVEL TERMS

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
<p>General Comments</p>	<ul style="list-style-type: none"> • Telecom has reviewed the Commission's draft Service Level Terms ("SLT") and submits that the SLTs as currently drafted do not achieve the necessary balance of providing incentives and ensuring the efficiency of the overall process. • The Commission has departed from all previously established principles of effective service levels and established a gold-plated service, which will only result in increased costs of the Mobile Co-location Service. <p><u>Purpose of the Service Levels</u></p> <ul style="list-style-type: none"> • Customer satisfaction is built on the foundation of service levels. Service levels should drive customer satisfaction by ensuring that the provider of the service behaves in an expected way and by creating the environment for the improvement of service delivery. Service levels are not a tool for punishing poor service delivery. • The purpose of service levels is to drive the right behaviour by selecting the key bottlenecks in the service delivery process and setting tolerance levels for the minimum acceptable level of performance in relation to such bottlenecks. This ensures that the service will be delivered in a timely and efficient manner. • In conjunction with the forecasting regime, service levels should ensure that the Access Provider's resources are allocated efficiently and concentrated in the relevant parts of the process. • The number of service levels combined with the amount and thresholds of tolerance levels and performance penalties define the type of the service provided and are inextricably linked with the costs of that service. • Telecom submits that the principle of an STD is to set a base level of service which will allow the parties to agree commercially on varying levels of that service. • Telecom notes that the Commission has, in its reasoning on its draft STD at paragraph 112, stated that it has included "a Service Level for every task that is the responsibility of the Access Provider, in order to provide the Access Seekers with greater certainty of the timeframes for delivery of key tasks..." (emphasis added). Telecom considers that it is inconsistent that every task that is the responsibility of the Access Provider will be a key task and will therefore require a service level. • The service levels in the Commission's draft STD are set at such a high threshold that they effectively form maximum targets rather than minimum performance levels and thereby leave no room for Access Providers to offer enhanced services. • Telecom submits that a combination of a high number of service levels with increased and doubled financial penalties is contrary to the purpose of service levels and is likely to result in counter-productive effects on the delivery and cost of the Mobile Co-location Service. <p><u>Consistency with previous STDs</u></p> <ul style="list-style-type: none"> • The Commission has recognised throughout its reasoning on its draft STD that the consistency with previous STDs is of great value to the parties. Applying consistent and tested principles and drafting across all of the STDs provides all parties with certainty. • The Commission has applied consistent principles in the other STDs by identifying key tasks and setting service levels around them. In its draft STD for the Mobile Co-location Service however, the Commission has departed from these consistent principles in three main areas: <ul style="list-style-type: none"> ○ By introducing cumulative penalties in addition to individual penalties; ○ By increasing the amount of service levels which carry financial penalties; and ○ By increasing the rate of calculation of financial penalties from 7% to 20%.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
	<ul style="list-style-type: none"> • Telecom submits that the standard principles applied to other STDs should also be applied to the Mobile Co-location Service. <p><u>Cumulative and Individual Service Level Penalties</u></p> <ul style="list-style-type: none"> • The Commission has included both individual and cumulative penalties for failure to meet a service level. • Inclusion of both cumulative and individual penalties would result in penalising the Access Provider twice for the same default. • Penalising the Access Provider twice for failing to meet one service level does not drive the right behaviour and does not provide the right incentives for the improvement of customer service. The purpose of the service levels, as noted above, is to ensure that the service is delivered in a timely manner. Access Seekers will not benefit from a higher standard of service through double penalties, as this is likely to be reflected in the increased price of the service. • Moreover, it is inconsistent with all previous STDs to include both individual and cumulative penalties. Given that one set of penalties has been, and continues to be, sufficient incentive on Telecom under the other STDs it is unclear why this would not be the case with Mobile Co-location. • Telecom has not been able to find any evidence from overseas where an end-to-end cumulative penalty was employed. • Telecom considers, based on its past experience that there has been no need for an end-to-end cumulative penalty in the other STDs, that there is no need for such a regime in the present case. • Telecom therefore submits that the Commission should prescribe only one set of performance penalties, either individual or cumulative. • Telecom's preference from a consistency point of view is to use individual Service Levels. Individual Service Levels are consistent with previous STDs and reporting systems that Telecom currently uses. <p><u>Performance penalties</u></p> <ul style="list-style-type: none"> • In addition to the introduction of the cumulative penalties, the Commission has moved away from the service level principles in the previous STDs in two further areas: <ul style="list-style-type: none"> ○ By introducing financial penalties to a greater number of service levels, some of which would ordinarily only have a "name and shame" incentive attached; and ○ By increasing the rate of calculation of financial penalties from 7% to 20%. • The guiding principle for determining the appropriate penalties for failing to meet service levels must be that such penalties, or incentives such as "name and shame" requirements, will drive the right behaviour. The risk of getting the performance penalties wrong is that it will drive the wrong behaviour, for example where the service levels are too onerous the Access Provider will put all their resources in meeting those service levels rather than delivering the best service to the customer. Moreover, non-financial penalties such as "name and shame" or reporting obligations can be a greater incentive to a larger corporate which provides competitive mass market products and services. • All previous STDs calculate the penalties based on 7%, and it is unclear why in the case of Mobile Co-location this should be increased to 20%. • It appears that, with the combination of an increased number of service levels carrying financial penalties, the increase from 7% to 20% and addition of cumulative penalties, the Commission considers that Access Providers do not have sufficient incentives to deliver the Mobile Co-location Service in a timely and efficient manner. However, the calculation rate of 7%, financial penalties for <i>key service levels only</i> and one set of penalties rather than two, were principles which provided, and continue to provide, sufficient incentives under all other STDs. • Telecom submits that, due to the lack of evidence that service level regimes in other STDs do not provide sufficient incentives on Access Providers, and given the great value of consistency and certainty across the STDs, the Mobile Co-location STD should follow the established principles.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
	<ul style="list-style-type: none"> In addition to the above arguments, Telecom notes that New Zealand Communications, in its submission on the draft Vodafone STP, argued that the basis of an increase of the penalty rate (in its submission from 7% to 100%) is based on the premise that mobile is more profitable than other services. This observation is purely speculative, has no factual or evidential foundation, and certainly does not warrant any such increase.
1 Introduction	<ul style="list-style-type: none"> Telecom notes that the Commission has deleted the reference to a "Charge". In the current case this charge relates to penalties for failure to meet Service Levels, deletion of which makes the penalties provisions inoperable. Telecom submits that this reference should be reinstated.
2 Scope	
3 Service Levels	
4 Exclusions	
5 Access Seeker Forecasts	
6 Reporting on Service Levels	<p><u>Multi-Site Applications</u></p> <ul style="list-style-type: none"> Telecom considers that, although it is implicit in the drafting of clause 6.1 that reporting and monitoring of Multi-Site Applications is excluded from the monitoring and reporting obligations, this should be explicitly provided. Telecom proposes that the following words be inserted at the end of clause 6.1: "For the avoidance of doubt, since Multi-Site Applications and Multi-Site Application Projects have different Service Levels as agreed by the parties, they will not be subject to the reporting and measuring obligations in this section 6." <p><u>Electronic and hard copies</u></p> <ul style="list-style-type: none"> Telecom considers that, although the drafting in clause 6.1 is consistent with previous STDs, it is both costly and unnecessary to provide hard copies as well as electronic. Providing an electronic copy only is more efficient, quicker and has lower costs. Telecom therefore proposes that the words "...in both hard-copy and electronic format" are deleted and replaced with "in electronic format, or unless necessary or required by the Access Seeker or the Commission, in hard-copy". Telecom recommends that this change should also be reflected in other STDs during the next review by the Commission.
7 Service Levels Defaults	
8 Performance Penalties	
Performance Penalties for individual Service Level Defaults	<ul style="list-style-type: none"> Telecom notes that the Commission has moved away from the penalty calculation rate of 7% which was included in all previous STDs. There does not appear to be a reason as to why such a shift has been made. The calculation rate of 7% did provide, and continues to provide, suitable incentive in other STDs, and it is unclear why this should be any different in the present case. Moreover, it is unclear why the rate of 20% would provide such incentives. Even where there are no penalties attached to service levels, Access Providers have to report on each service level, including providing information on what actions they are taking to remedy any defaults. Telecom considers that the rate of 7% provides sufficient incentives on the Access Providers, and that the increase in the penalty rate, together with the increase in the number of service levels which carry financial penalties will only have a negative impact on the cost and improvement of the service.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
Performance Penalties for cumulative delay days as a result of Service Level Defaults for the same Relevant Facilities	<ul style="list-style-type: none"> • Telecom submits, consistent with our general comments above, that including both cumulative and individual penalties will have the effect of: <ul style="list-style-type: none"> ○ driving the wrong behaviour; ○ penalising the Access Provider twice for the same default; and ○ increasing the cost of the delivery of service. • Individual Service Levels are consistent with previous STDs and reporting systems that Telecom currently uses. Telecom therefore submits that clauses 8.2 to 8.5 should be deleted.
Performance Penalties prior to completion of Soft Launch	
9 Reconciliation of Performance Penalties	<ul style="list-style-type: none"> • Telecom notes, consistent with our submission on the removal of cumulative penalties, all references to cumulative penalties should be taken out of section 9.
Appendix 1	<p><u>Removal of Exclusions</u></p> <ul style="list-style-type: none"> • The Commission has removed almost all of the exclusions to service levels in its draft STD. Telecom notes that exclusions are necessary in the two following areas, namely: <ul style="list-style-type: none"> ○ Setting capacity caps; and ○ Exclusions relating to faults. <p><u>Setting capacity caps</u></p> <ul style="list-style-type: none"> • It appears from the removal of exclusions relating to parts of the process other than Site Data Pack Applications that the Commission has assumed that having an exclusion at the Site Data Pack stage will limit volumes at later stages of the process. • The Access Seeker can enter the process at any of the Site Data Pack or Full Site Application stages. Once the Access Seeker obtains a Site Data Pack, there is no requirement on them to proceed to the next step. There is no guarantee that the Access Seeker will submit a Full Site Application shortly following the issuing of the Site Data Pack, or that they will limit their Full Site Applications only to those Sites for which they received a Site Data Pack. Despite Full Site Applications having to be forecast by the Access Seekers, the physical resources required in processing them make an exclusion necessary. • Capacity cap exclusions are of great importance to ensure that a ceiling is placed on the practical and efficient level of resources the Access Provider has available at any one time. It would be inefficient and costly to have to provide resources for maximum or unexpected/uncapped amount of Access Seeker applications. • The capacity caps were included in all previous STDs, for example, in the UCLL Co-location STD Telecom had to provide a capped number of sites per quarter irrespective of the number of applications it received. The same principles should apply for the Mobile Co-location Service. • Telecom therefore submits that all exclusions set out in its submission on the draft Vodafone STP are reinstated. <p><u>Faults</u></p> <ul style="list-style-type: none"> • Telecom has inserted service levels relating to faults (items 11 and 12) into its mark up of the draft Vodafone STP based on equivalent service levels in the UCLL Co-location STD. In the UCLL Co-location STD these service levels included exclusions for invalid fault reports and emergencies. There appears to be no reason why these exclusions should be removed from the draft STD. • These are standard exclusions which relate to events outside the Access Provider's control, and omitting them will have an adverse impact on the Access Provider.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
	<ul style="list-style-type: none"> • Telecom therefore submits that these exclusions should be reinstated.
Interference Desktop Study	<ul style="list-style-type: none"> • Telecom submits that the timeframe for Access Providers to provide the Access Seeker with a desktop study should be extended from 10 Working Days to 15 Working Days. • Experience over the last two to three months (in delivering the Mobile Co-location Service commercially) has indicated that 10 Working Days will be unachievable due to the requirement to give Existing Co-locators a sufficient opportunity to provide the information required for the desktop study to be completed. • Telecom believes that it is essential that the desktop study is correct because Antenna should not be turned on where there is interference. A timeframe of 15 Working Days to provide the desktop study should give the Access Provider sufficient time to gather and interpret the information required. However, this timeframe is still dependent on information being provided by Existing co-locators.
Multi-Site Application	<ul style="list-style-type: none"> • Telecom supports the Commission's inclusion of the service levels around the Multi-Site Application and Project Plan in principle, subject to the below comments. <p><u>Notification of validity</u></p> <ul style="list-style-type: none"> • Notification of validity (item 4) does not appear to provide any significant benefits to the process. Since they add no value to the Access Seeker, requiring the Access Provider to report on them seems unnecessary. Notifications of validity are relevant where the timeframes are longer, for example 20 Working Days. However, given that the timeframe on the Access Provider to provide a Project Plan for up to 10 Relevant Facilities is 5 Working Days, providing a notification of validity within 3 Working Days is overly onerous and does not add value to the Access Seeker. Telecom considers that the costs of including this service level outweigh its benefits. This service level should therefore be removed from the SLTs. <p><u>Uncapped amount of applications versus capped processing timeframes</u></p> <ul style="list-style-type: none"> • Telecom notes that in the Multi-Site Project Plan (item 5), the Commission has not capped the amount of Applications the Access Seeker may submit but it has capped the time within which the Access Providers have to process such an unlimited amount of Applications. This approach appears contradictory, and the service level should either cap both the amount of Applications and the timeframes or leave both uncapped. • According to present drafting, the Access Provider may be placed in a situation where 60 or 80 or 100 Applications are received, and they all must be processed within 15 Working Days. This would be impossible to deliver. Lead times provided in Telecom's draft of the Multi-Site Application process are based on the estimate of actual work required in order to produce the Project Plan, which, according to Telecom's estimates, would be half a Working Day per Relevant Facility. • Telecom therefore submits that the timeframes provided in its original draft of the Multi-Site Application process should be reinstated, namely: <ul style="list-style-type: none"> ○ 5 Working Days for up to 10 Relevant Facilities; ○ 10 Working Days for up to 20 Relevant Facilities; ○ Anything above 20 Relevant Facilities - to be agreed between the parties depending on the actual amount. <p><u>Exclusion for forecasts</u></p> <ul style="list-style-type: none"> • Consistent with our submission on section 4 above, the Multi-Site Project Plan should contain a standard exclusion for forecasts.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
Site Desktop Assessment	<p><u>Site Data Pack Applications Cap</u></p> <ul style="list-style-type: none"> The Commission's proposal in paragraph 120 of its draft determination implies that the cap on the Access Seeker's Site Data Pack Applications should be 15 Applications for all Access Seekers per week, with a maximum reasonable overall cap of 60 Applications per month. The drafting in Issue of Site Data Pack (item 7) service level however does not appear to match this reasoning, as it sets a cap of 15 Applications per Access Seeker per week. The Commission has clearly accepted that 60 Applications per month for all Access Seekers is a reasonable overall cap. However, if the drafting does allow for 15 Applications per Access Seeker per week, would result in the likelihood that the orders would exceed the overall cap and adversely affect other Access Seekers. Telecom therefore submits that this should be reduced to 10 Applications per Access Seeker per 5 Working Days. <p><u>Drafting note</u></p> <ul style="list-style-type: none"> Telecom submits that the words "However, such information requests are to be processed within a reasonable timeframe" are ambiguous and subjective, for an Access Seeker has no visibility of the information the Access Provider is trying to obtain. Telecom submits that these words should be deleted.
Initial Site Application and Detailed Site Design	<ul style="list-style-type: none"> Telecom notes that the Commission has included items 8,9 and 10: Initial Site Application Acknowledgment, Design Notes Acknowledgment and Confirmation of the Access Seeker's Design Notes as the service levels. As discussed in our general comments above, not every task that is the responsibility of the Access Provider will be a key task requiring a service level. These tasks relate to optional steps in the process, and as such are not bottlenecks and do not require service levels. Including service levels for steps in the process which are not bottlenecks would have the effect of overloading the system and does not drive the right behaviour. Items 8,9 and 10 should therefore be removed from the SLTs.
Final Site Application	<ul style="list-style-type: none"> The Commission has reduced the timeframe on the Decision on the Access Seeker's Full Site Application (item 12) to 10 Working Days from 20 Working Days. The TCF Co-location of Radiocommunication Services Regulated under the Telecommunications Act 2007 Code ("Code") provides 20 Working Days for the Access Provider's decision on the step equivalent to the Preliminary Site Approval in the draft STD. Preliminary Site Approval is the most important step in the process. Rushing this step would only result in negative consequences for both Access Providers and Access Seekers and could lead to further delays in the overall process. This step requires a timeframe of a minimum of 20 Working Days due to its complexity. There are a number of variables which need to be considered by a number of both internal and external experts, including external specialists, vendors, structural or RF engineers. The Preliminary Site Approval process involves a number of sequential, rather than concurrent steps which increases the time required for completion of the assessment process. Once all the variables are considered by all the relevant experts and all of the information has been sent back to the Access Provider for consideration, conflicts, inaccuracies or deficiencies may arise which will need to be resolved between the Access Provider and the external resources. The external resources required are scarce and specialised and it is difficult to guarantee that they will be available as soon as they are required. Processing Full Site Applications is a complex process involving multiple external parties and multiple actions and processes while leaving little scope for flexibility. Telecom's experience has shown that the full 20 Working Days are required for this step.

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
Final Site Approval	
Project Plan	<p><u>Decision on Access Seeker's Project Plan timeframe</u></p> <ul style="list-style-type: none"> • The decision on the Access Seeker's Project Plan (item 16) is another key step in the process. Where this step is not completed thoroughly, the consequences would be major and would have flow on effects to the Site Build, which would disadvantage both the Access Seeker and the Access Provider. • The work involved in assessing and approving the Access Seeker's Project Plan is outsourced to specialists and thus requires external resources. Telecom's experience to date shows that the entire 10 Working Days are required. • Reducing the timeframe by 3 Working Days does not seem to outweigh the risk of rushing this task. • The timeframe in Decision on Access Seeker's Project Plan (item 16) should be 10 Working Days rather than 7. Moreover, it is difficult to see why the timeframe should be reduced from two weeks to one week and a half. <p><u>Access Seeker's Amended Project Plan</u></p> <ul style="list-style-type: none"> • The service level for the Decision on Access Seeker's Amended Project Plan (item 17) is inconsistent with the purpose and goal of service levels. The Commission should place the impetus on the Access Seeker to ensure their Applications are correct the first time they are submitted. By including a service level on the Access Provider for making a decision on a Project Plan that the Access Seeker has had to resubmit due to inadequacy is driving the wrong behaviour and removing incentives on the Access Seeker to use its best endeavours to submit an adequate document initially. • It is impossible to predict why the initial Project Plan may be rejected, and whether the issues with it are only minor or major. Where the Access Seeker's Project Plan has been rejected only due to minor issues, it is likely that processing the amended version will take less than the initial 10 Working Days. However, for a Project Plan to be initially rejected it would likely be due to a material deficiency. Where the Access Seeker has majorly reworked the document, there is no reason why the burden should fall on the Access Provider to re-asses this new document in a halved timeframe. • Service levels should ensure that the Access Providers are efficient and should not be included where the Access Seeker fails to submit adequate documentation. • Moreover, halving the timeframe for an amended Project Plan may provide the wrong incentives on the Access Seeker to supply a deficient Project Plan in the first instance in the hope of having the amended version processed faster. • Telecom therefore submits that item 17 is removed from the SLTs.
Planned and Unplanned Outages	
Fault Management for Mobile Co-location Service	
Operational Support System SLTs for Mobile Co-location	
Notes	<ul style="list-style-type: none"> • The Commission has included the words "where a web-based system is in place" in its notes on the Provisioning System. • The notes were based on notes in the UCLL Co-location STD, which did not include a reference to web-based systems. • Telecom considers that the term "web-based" is overly prescriptive and limits the types of applications that may be used by different Access Providers. Access Providers may use varying types of electronic systems, some may be web-based, and others may be email-based. • It is consistent with the Commission's overall approach throughout the STD not to prescribe specific delivery mechanisms (software, hardware, equipment etc) to be used (for example, billing systems should only be "electronic" which captures PDF invoices, web-based interface, email-based or B2B).

SECTION/CLAUSE of the DRAFT COMMERCE COMMISSION STD	COMMENT
	<ul style="list-style-type: none"> Consistent with this approach, Telecom submits that the Commission may require the system to be "electronic", as this leaves it to the Access Providers to use whatever systems they find appropriate, while capturing "web-based" within that requirement.
Appendix 2	
Performance Penalties for individual Service Level Defaults	<p><u>General comment</u></p> <ul style="list-style-type: none"> Telecom notes that the Commission has inserted the words "Where the Access Provider fails to meet the specified Tolerance Level" in the performance penalty column. These words were not included in other STDs and do not appear to add anything to the effect of the provisions. Taking into consideration the value in consistency across STDs, we propose these words are removed. <p><u>Removal of financial penalties for service levels that are not key bottlenecks</u></p> <ul style="list-style-type: none"> Telecom submits that the following items are not key bottlenecks, and consistent with our submissions in the general comments above, should not incur financial performance penalties: <ul style="list-style-type: none"> Confirmation of the Access Seeker's Site Design Notes (item 10); Decision on Access Seeker's Preliminary Notice (item 14); and Decision on Access Seeker's Amended Project Plan (item 17). These items should therefore be removed from the SLTs. <p><u>Meeting expected restoration time</u></p> <ul style="list-style-type: none"> Telecom submits that the Service Level relating to the Access Provider meeting the expected restoration time is not relevant for the Mobile Co-location Service. This Service Level was included in previous STDs because an outage in the Access Provider's network in cases of UCLL and UBA means an outage in an Access Seeker's network. In the case of the Mobile Network, an outage in the Access Provider's Mobile Network has no impact on the Access Seeker's Mobile Network. This is therefore irrelevant and should be deleted. <p><u>Calculation rate increase from 7% to 20%</u></p> <ul style="list-style-type: none"> Please refer to our general comments above regarding the increase of the penalty calculation rate from 7% to 20%.
Appendix 3	
Performance Penalties for cumulative delay days	<ul style="list-style-type: none"> Based on our submission in the general comments above, Telecom submits that Appendix 3 should be deleted in its entirety.