



19 May 2010

Shane Kinley
Commerce Commission
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Dear Mr Kinley

Submission on Commerce Commission's draft recommendation

Introduction

1. The members of the Drop the Rate, Mate! campaign are grateful for the opportunity to submit on the Commerce Commission's draft recommendation to the Minister for Communications and IT Steven Joyce on mobile termination access services (MTAS).
2. Further to our previous submissions, there are two points that we wish to stress:
 - New Zealanders support the regulation of MTAS;
 - It is crucial the investigation be concluded as soon as possible.

Kiwis support regulation

3. The Drop the Rate, Mate! campaign speaks for more than 13,000 Kiwis who have signed up to the campaign via our website at www.droptherate.org.nz.
4. It is clear that New Zealanders support the regulation of MTAS, not only from the enormous support that our campaign has received, but also from the polling that we carried out with Curia Market Research in March 2010. 59% of Kiwis do not trust the mobile networks to lower their prices voluntarily and a massive 78% want regulation to lower prices more quickly than voluntary undertakings would. The full polling results are attached as an appendix.

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5. The media is also supportive of a regulatory conclusion to this issue. A *New Zealand Herald* editorial on 9 May pointed out that on-net pricing was anti-competitive to the point of being oppressive, and that our mobile phone charges were among the highest in the OECD. The article concluded with “*If the companies won’t move – and move fast – then regulation is the only way*”.
6. The mobile networks have not moved fast, and now is the time for regulation.

Conclusion of the investigation is vitally important

7. The investigation into MTAS has been ongoing for more than two years and further time will be required to complete a standard terms determination process in the event MTAS is regulated.
8. When the Telecommunications Act was amended in 2006, the intention was that decision-making on telecommunications services would be accelerated, by allowing networks to offer cost-based rates voluntarily, bypassing government regulation through the undertakings process. However, it is clear that in relation to the MTAS investigation the rates offered in commercial undertakings are materially above cost and will not address the significant barriers to entry and expansion that exist in the New Zealand market. In fact, the decision-making process has been delayed by the undertakings process.
9. With the Commerce Commission making its recommendation to the Minister for the second time in the coming weeks, we believe it is time for this investigation to come to its final conclusion and fully support the Commission’s recommendation that the Minister reject the above-cost undertakings offered by the incumbents require cost-based regulation of MTAS.

Conclusion

10. Consumers have waited a long time for increased competition in the New Zealand, evident from the thousands of supporters of the Drop the Rate, Mate! campaign. Regulation is now essential to ensure consumers benefit from increased competition, encompassing pricing, innovation and service.
11. We urge the Commission to recommend that the Minister imposes international best practice by regulating MTAS to cost.

Yours sincerely

The Members of Drop the Rate, Mate!