



COMMERCE COMMISSION

Please refer to:  
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27 April 2010

To Interested Parties:

**Mobile termination access services investigation – indicative process and timeline for reconsideration**

In a letter dated 26 April 2010 the Minister for Communications and Information Technology (the **Minister**) requested<sup>1</sup> under clause 6(2)(b) of Schedule 3 of the Telecommunications Act 2001 (the **Act**) that the Commerce Commission (the **Commission**) reconsider its recommendation in its Final Report (the **Final Report**)<sup>2</sup> under Schedule 3 of the Act as to whether or not mobile termination access services should become regulated services under Schedule 1 of the Act.

The Minister's request for reconsideration noted that the Final Report had identified concerns regarding the issue of whether or not smaller operators could compete with Telecom and Vodafone's on-net retail rates. The Minister wrote<sup>3</sup> to the Commission on 19 April 2010 regarding Vodafone's new Talk Add-on plan, asking whether the rates available under this offer were material to the Commission's determination of this issue.

The Commission advised<sup>4</sup> the Minister on 19 April 2010 that such a plan (and any market outcomes which may arise from it) may be material, and that that such a plan may have the potential to affect the basis for the Commission's recommendation that Telecom's and Vodafone's Final Undertakings be accepted as an alternative to regulation.

Specifically, the Minister's request for reconsideration has asked the Commission to "reconsider its recommendation" and

"to consider:

- any relevant retail offers that have been released since [the Commission sent its report to the Minister] on 22 February 2010, or that may be released by the time [the Commission finalises its] reconsidered recommendation; and
- the implications (if any) that those offers have on the [Commission's recommendation that the Minister] accept the undertakings put forward by Telecom and Vodafone."

<sup>1</sup> Letter from the Minister to the Commission, *Mobile Termination Access Services*, 26 April 2010.

<sup>2</sup> Commission, *Final Report on whether the mobile termination access services (incorporating mobile-to-mobile voice termination, fixed-to-mobile voice termination and short-message-service termination) should become designated or specified services*, 22 February 2010.

<sup>3</sup> Letter from the Minister to the Commerce Commission, *untitled letter*, 19 April 2010.

<sup>4</sup> Letter from the Commission to the Minister, *Commission's Final Report on Schedule 3 investigation into whether or not mobile termination access services should become regulated services (Final Report)*, 19 April 2010.

This letter sets out the indicative process and timeline that the Commission proposes to follow in reconsidering this matter.

Given the scope of the Minister's request, the reconsideration will be confined to the issue of whether any relevant retail offers that have been released since 22 February 2010, or that are to be released before the Commission expects to complete its Final Reconsideration Report in early June, have implications for the Commission's recommendation in the Final Report. The Commission is aware of two retail offers that have been released since 22 February 2010, being Vodafone's Talk Add-on plan and 2degrees' 2cent text to 2degrees mobiles top-up offer.

The Commission will issue a Draft Reconsideration Report, which will address the issue identified above. The Commission will then provide an opportunity for submissions and cross-submissions on the Draft Reconsideration Report. Having considered fully all relevant submissions, the Commission will then provide its Final Reconsideration Report to the Minister.

The Commission invites interested parties to provide by **5pm on Monday 3 May 2010** any information regarding new retail plans that have been released since 22 February 2010, or that are to be released before the Commission expects to complete its Final Reconsideration Report in early June, that parties wish the Commission to consider before issuing its Draft Reconsideration Report. Any such information should be new information directly relevant to the issue that the Minister has requested the Commission to reconsider.

The indicative timeline for the reconsideration process is set out in the table below:

#### **Indicative Timeline for Reconsideration Process**

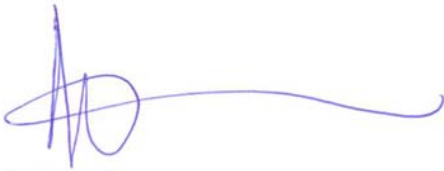
<b>MILESTONE</b>	<b>DATE</b>
Minister requests reconsideration	26 April 2010
Commission advises interested parties of process and indicative timeline for reconsideration	27 April 2010
Deadline for interested parties to submit any relevant information for Commission consideration	5pm 3 May 2010
Draft Reconsideration Report released	12 May 2010
Submissions on Draft Reconsideration Report due	5pm 19 May 2010
Cross-submissions due	5pm 26 May 2010
Final Reconsideration Report delivered to Minister	Early June 2010

The Commission intends to issue a confidentiality order for the reconsideration process later this week. Any information provided to the Commission during the reconsideration process should indicate whether it is public information or, where confidentiality is sought, the relevant classification and grounds under the confidentiality order for seeking confidentiality. The terms of the confidentiality order will then apply with respect to the appropriate classification and treatment of such information.

This letter and related correspondence between the Minister and the Commission, the Final Report and other documents related to the MTAS Investigation are all available on the Commission's website at [www.comcom.govt.nz/mobiletomobiletermination/](http://www.comcom.govt.nz/mobiletomobiletermination/).

Should you have any queries in relation to this matter, please contact Shane Kinley on (04) 924 3686 or by email at [shane.kinley@comcom.govt.nz](mailto:shane.kinley@comcom.govt.nz).

Yours sincerely

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Dr Ross Patterson  
Telecommunications Communications