



COMMERCE COMMISSION

Please refer to:

11128
932245_2

17 December 2009

Robert Stewart
Partner
Izard Weston

By email: robert.stewart@izardweston.co.nz

Dear Mr Stewart

Re: The Independent – Keown Article

Thank you for your 21 October letter in respect of this matter. The Commission welcomes your assistance in confirming that the Independent stands by the attribution in the Keown article that Vodafone is the source of the protected information.

I note your reliance on section 68 of the Evidence Act 2006 in refusing to provide further information in respect of the source of the protected information. While the Commission does have questions concerning the application of section 68 in this case, the Commission certainly understands the view that the protection of media sources is important.

Following your confirmation, the Commission wrote to Vodafone in respect of the attribution in *The Independent* that Vodafone was the source of the leak. Vodafone has given assurances, to the extent it can, that Vodafone treats confidential information in its possession seriously and deal with such information appropriately. Specifically, Vodafone has written to the Commission stating that “[w]e have satisfied ourselves that there was no authorised leak of mobile termination rate information for Vodafone”.

As part of its investigation, the Commission also contacted 2degrees who advised that they were confident that the leaked information did not come from within 2degrees and that they were not aware of the circumstances of the disclosure of the confidential information.

In light of these confirmations, and as the Commission has not been able to obtain corroborating evidence linking a particular person or party with the potential breach, the Commission has concluded its investigation into the potential breach of section 100 in respect of the MTAS Investigation. The Commission has today also written to Vodafone and 2degrees to inform them of this decision, and will shortly be issuing a media release in relation to this decision and the assurances given by each party.

Yours sincerely

Dr Ross Patterson
Telecommunications Commissioner