



COMMERCE COMMISSION

Please refer to:
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19 April 2010

Hon. Steven Joyce
Minister for Communications and Information Technology
Parliament Buildings
Wellington

Dear Minister

Commission's Final Report on Schedule 3 investigation into whether or not mobile termination access services should become regulated services (Final Report)

Thank you for your letter of 19 April 2010, regarding the launch by Vodafone New Zealand of a new Talk Add-on product. The Commission understands that this product offers Vodafone's prepay customers up to 200 minutes to Vodafone New Zealand mobiles and landlines for \$12 a month and is promoted on Vodafone's website as 'just 6 cents a minute to Vodafone NZ mobiles and landlines in New Zealand'.¹

You have advised that MED officials have expressed the view that the rates available under the new on-net offer from Vodafone may be material to the determination of the issue of whether or not smaller operators could compete with Telecom and Vodafone's on-net retail rates, which was of significant concern in the Commission's Final Report to you.

You have requested comment on whether or not the Commission considers that this is the case.

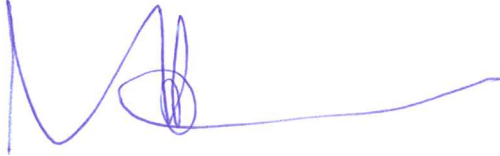
Since becoming aware of the launch of Vodafone's new Talk Add-on product last week, the Commission has reviewed the details of, and the type of market behaviour exhibited by, Vodafone's new Talk Add-on product in the context of the recommendation in the Final Report.

On behalf of the Commission, I can advise that our initial view is that such a plan (and any market outcomes which may arise from it) may be material. Further, the Commission's initial view is that such a plan may have the potential to affect the basis for the Commission's recommendation in the Final Report (with which Commissioner Mazzoleni did not concur) that the Telecom and Vodafone Final Undertakings would address the competition issues which the Commission identified throughout the MTAS Investigation, and should therefore be accepted as an alternative to regulation.

¹ <http://www.vodafone.co.nz/plans/prepay/cheap-talk.jsp>

We therefore invite you to take account of the launch of Vodafone's Talk Add-on product in your assessment of whether the Final Undertakings should be accepted, or whether a request under clause 6(2)(b) of Schedule 3 of the Telecommunications Act 2001 for reconsideration of the Commission's recommendation in the Final Report (and the aspects of that recommendation described in paragraphs xxx and xl to xlii of the Final Report) is appropriate.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'R. Patterson', with a long horizontal flourish extending to the right.

Dr Ross Patterson
Telecommunications Commissioner