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Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
PO Box 2351
WELLINGTON

Dear Dr Patterson

MTAS – Indicative Process and Timeline for Reconsideration

This letter responds to the Commerce Commission's (**Commission**) letter dated 27 April 2010 setting out an indicative timeframe and process for the reconsideration of the Final Report on the investigation into Mobile Termination and Access Services (**MTAS**).

No part of this letter contains confidential information.

Information Disclosure

We note that the scope of the reconsideration is limited to considering the impact of the following on the recommendation in the Final Report:

- Any relevant "retail plans" released since 22 February 2010. (From our discussions with the Commission we understand this to mean any mass market offering at the retail level, and not bespoke pricing for corporate customers); and
- Any relevant retail plans that parties intend to release prior to June 2010.

We confirm that Telecom has not released any retail plans since 22 February 2010 under which on-net prices were lower than the off-net prices. This is in line with our general strategy of "any-net" pricing for the XT network.

As to our intentions going forward, we remain committed to our "One Rate" approach, and have no plans to change this prior to June at present. We will however continue to monitor competitor and market activity and develop commercial pricing plans accordingly.

The Vodafone Offer

We note that the reconsideration of the Final Report was prompted by Vodafone's "Talk Add-On" plan that incorporates significant discounts for on-net calling. It is possible that there are some misconceptions about the scale of on-net discounting that Vodafone's "Talk Add-On" entails.

The offer has been described by various sources as a "6c per minute" rate. However, as noted by Vodafone's letter to the Minister dated 26 April 2010¹, what the offer actually provides is **up to** 200 minutes of calling per month (to landlines and Vodafone NZ mobiles) for \$12.

The key distinction between a 6c rate for mobile and what is actually being offered is that a customer would only truly get a 6c rate for mobile under the "Talk Add-On" if he or she could perfectly use 200 minutes of calling each month.

In reality few, if any, customers would be able to use their 200 minutes exactly. Any deviation from perfect use would mean that the customer pays in effect a higher rate. Across the customer base as a whole, the following factors would influence the true rate:

- The extent to which customers tend to not fully use their 200 minutes per month (this would likely be the most significant factor) – the party making the offer receives \$12 even if a customer does not make many calls;
- If the end customer is charged on a minute plus minute basis (which we understand to be the case), then the end customer will likely lose part of a minute's call time with each call that is made.
- Any revenues for customers using in excess of 200 minutes and being charged at a higher rate.

Vodafone's data would be able to show what the true cost of calling is for an average customer and what, if any, impact this plan may have on Vodafone's average on-net calling price across all plans. We understand that Vodafone has already submitted on this point.

Finally, we welcome the guidance the Commission has given on the likely timeframe for this next stage in its investigation, and we re-iterate the importance of early certainty on this issue to our organization and our customers.

The Undertakings put forward by Telecom and Vodafone provide the greatest degree of certainty of any of the options before the Commission, and deliver termination rates in line with international benchmarks. Retail market developments, while pertinent to the Commission's investigation, are a largely separate matter to what level of termination rate will best serve the long term interests of end-users in New Zealand in that the correlation between retail market offerings and MTRs is weak. The retail offers highlighted by the Commission in its letter do not evidence any direct link to wholesale termination rates and are not, in our view, sufficiently unique in any other respect as to materially alter the Commission's decision. We continue to support, therefore, adoption of Telecom's and Vodafone's MTAS Undertakings.

Yours sincerely



John Wesley-Smith
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Industry & Regulatory Affairs