



28 September 2010

Ms Rebekah Henderson  
Senior Analyst  
Regulation Branch  
Commerce Commission  
Private Bag  
Wellington

Dear Ms Henderson

**Re: Draft Report on Resale Services – SUBMISSION ON DRAFT REPORT**

Thank you for the draft report on resale services of 26<sup>th</sup> August 2010.

We are grateful for the opportunity to comment

Our observations are as follows:

- 2degrees welcomes the opportunity to roll back unnecessary regulation wherever a market is now functioning and the telecommunications industry of NZ is performing in the top ¼ of its OECD benchmarks.
- With regard to removing the requirement for Telecom to resale PSTN products ( as listed in the draft report ) we feel its premature for the following reasons
  - Telecom wholesale has no incentive ,to resale products to competitors, as a consequence new entrants , will not be sure that they can offer “like for like “ bundled products.
  - A possible ownership separation of Chorus means a new regulatory environment will be built soon and ,regulatory adjustment , should await this process.
  - Bundling is a competitive reaction perpetrated by incumbents, , which requires either regulatory management against the practise ( such as in the UK in the 1990s, ) or a re sale capability amongst new entrants . And because there is no guidance on bundling in the 2001 Telecommunications Act- the resale opportunity should continue to exist.
  - *2degrees agrees with Vodafone* “retaining access to these products on regulated terms is required because a commercial agreement is not easily reached with Telecom for those services which fall outside of the regulatory backstop. The end user customer will have no other option than to move all its services to telecom to be able to get the “package of services” that they need . “..... ,”we would like to reiterate that where Telecom is the sole provider of a range of services losing a regulated service is not a desirable outcome from



both an end user perspective as well as a competing service providers perspective “  
*Vodafone 28<sup>th</sup> May 2010 .*

- Telecom uses its land line dominance to pursue closed network activity on its mobile phone network. As a consequence until –anti bundling or off net discrimination rules are complete , there is a requirement for competing mobile operators to “swap out landline PSTN services to a new mobile operator so they can offer fixed price calling from land lines to mobiles. The ownership of a land line business is used to discriminate and bundle services in the mobile business with products like “freedom” –whereby fixed price calling exists for land line consumers to mobile consumers for a \$10 flat fee . Of note is that Telecom’s landline discriminates to calls to mobile operators other than Telecom- its 38c to a Telecom Mobile and 47c to other mobiles ( 2degrees and Vodafone ) In order for 2degrees to capture small business users , - it must offer unlimited landline calling to its mobiles for a fixed price ( therefore in some situations it must be able to re sell land lines) .-
  
- We urge the Commerce Commission to postpone the roll back of the Regulated re sale services and focus its allocate its resources in ensuring “like for like “competition is improved in NZ .

The 2degrees position is that there should be no removal of the regulated re sale services until the UFB regulatory environment is concluded and it is clear what the impact is of a potential ownership separation of Telecom. To do so earlier would prejudice the interests of real infrastructure investors such as 2degrees and Vodafone who are continuing to expand their product range to facilitate “like for like “competition across all services.

Thank you for considering these matters,

Yours sincerely

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2degreesmobile

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