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**Debra Blackett**  
Assistant General Counsel  
Group Competition & Regulatory

9 October 2006

Rachel McLauchlan  
Senior Legal Counsel  
Commerce Commission  
P O Box 2351  
WELLINGTON

**BY EMAIL:** Rachel.McLauchlan@comcom.govt.nz

Dear Rachel

**Information provided under Confidentiality Order regarding Bitstream Access Price**

1. We refer to your email of Friday 6 October 2006 requesting that Telecom produce a public and a confidential version of the spreadsheet containing Telecom's adjusted bitstream price, and the supporting underlying information for that calculation, relating to the period 10 June 2006 to 22 September 2006 pursuant to paragraph 208 of Decision 582 ("**information**").

**Restricted Information**

2. The information is attached and submitted under the Order made pursuant to s100 of the Commerce Act 1986 and s15(i) of the Telecommunications Act 2001, issued by the Commission on 6 October 2006 ("**Order**").
3. Telecom seeks protection of the information in the spreadsheet headed "Restricted Information Version" as Restricted Information under the Order, in accordance with clause 2 of that Order.
4. As required under clause 2, we attach:
  - a certificate in the form required under clause 8 of the Order; and
  - an deed of undertaking;

signed by me as Telecom's Nominated Counsel.

5. The public version of the information is provided as required under clause 10(c) of the Order.

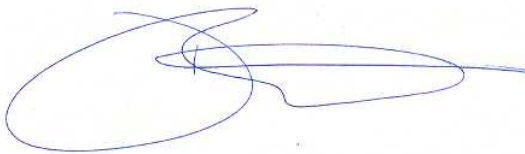
**Reasons for Protection**

6. Telecom has consented to the Commission's proposed course of action (outlined in the Commission's letter of 2 October 2006), and therefore to the release of this information to Mr

Wigley and Mr De Ridder as Restricted Information under the Order, solely as a pragmatic way forward arising from the appeal in relation to Decision 582.

7. We note, however, that Telecom considers that this type of information (numbers of customers who purchase Telecom's plans and information derived from those numbers that would enable someone to reverse engineer the numbers) should normally be treated as "Commission Only" Information. Telecom's agreement in this case is an exception and does not derogate from this general position.
8. Telecom's consent to this process should not be taken as agreement that Decision 582 requires consultation with the parties prior to approval of the calculation of the WARP. Telecom does not agree that consultation in relation to any future price adjustments is required or mandated by Decision 582.
9. Telecom considers that any Official Information Act requests relating to the information provided as Restricted Information should be refused on the basis that the disclosure of this information would unreasonably prejudice Telecom's commercial position.

Yours sincerely

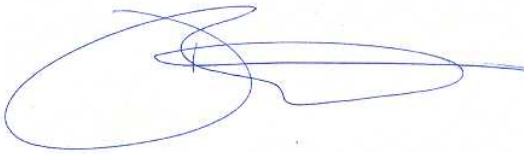


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## Certificate of Nominated Counsel

- (a) In accordance with clause 8 of the Confidentiality Order dated 6 October 2006 ("Order") in respect of the review of Telecom's adjusted bitstream access price under Decision 582, I certify, as Nominated Counsel for Telecom, that I consider that the protection of the information requested by the Commission (Telecom's adjusted bitstream access price and the supporting information relating to the period 10 June 2006 to 22 September 2006) as Restricted Information in accordance with the Order is necessary in order to avoid likely unreasonable prejudice to the commercial position of Telecom who supplied and who is the subject of the information. This certificate is given in my capacity as an officer of Telecom and on the basis of the instructions and information provided to me by persons within Telecom's business.

Dated this 9<sup>th</sup> day of October 2006



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