



Vodafone New Zealand Limited
Corporate Affairs
20 Viaduct Harbour Avenue
Private Bag 92161
Auckland, New Zealand

Reception +64-9-355 2000
Facsimile +64-9-355 2006

21 December 2010

Daniel Vincent
Commerce Commission
WELLINGTON
By email: Daniel.Vincent@comcom.govt.nz

Dear Daniel,

Re: Cross Submission- Draft Review of the Standard Terms Determination for Telecom's unbundled bitstream access service.

This letter is Vodafone's response to the Commerce Commission's invitation to cross submit on the Draft Review of the Standard Terms Determination for Telecom's unbundled bitstream access service.

We note that submissions have been received from Vector and Telecom. We provide some comment on the content of those submissions.

Vodafone is pleased to read that the submissions are generally supportive of the Commission's draft decision.

Several common topics are discussed in the submissions and we take the opportunity to provide further comments on the following:

- 3G mobile services and its level of substitutability
- Reviewing the frequency and process for monitoring changes in the market
- Inclusion of Significant Market Power (SMP) in the market definition

Are 3G mobile services a close substitute for UBA?

Both Vector and Telecom provided their response to the Commission's request regarding 3G mobile services. There appears to be a strong alignment of Access Seekers' views on the matter. As outlined in our submission, 3G mobile services are increasingly becoming a closer substitute for fixed line broadband services.

Vector's proposal (para 13) appears sensible and is probably the best possible approach in order to give the Commission an opportunity to monitor the evolution of the services without being constrained in any future competition assessment.

We understand Telecom's comments as a proposal to include 3G mobile services in the product definition as soon as possible. We do not support this position.

From Vodafone's perspective, the inclusion of a new service that is a close substitute is a decision that can not be made until a minimum of elements and steps of consultation have been proposed and discussed. Vodafone believes that a clear and detailed process needs to be established and agreed across the industry (which should include a proper consultation) before a final decision can be made. We believe that the current established process for regular competition assessment should achieve this outcome and that the proposal outlined by Vector is a step forward for the monitoring of the product definition for the purpose of the UBA competition assessment.

As noted in our submission, we would welcome further discussion with the Commission and other industry members on that matter.

A robust and efficient monitoring and review process needs to be agreed

While Vector's view on a 6 monthly review is in strong alignment with Vodafone's position, Telecom maintains that the competition review should be done concurrently with the quarterly UBA price review.

It remains very unclear to us what the benefits of a quarterly review would be. We anticipate that it could generate additional costs and would certainly be an unnecessary distraction for the Commission when more attention could be allocated to other matters.

The frequency of reviews has been a matter for debate under the Data Costs review consultation. However, the commonality of elements in consideration within respective reviews is very limited and we certainly believe that there are no evident benefits to use the existing discussion under the Data Costs review in order to reach a position for the UBA competition assessment.

The competition assessment is dependent on investment in infrastructure, evolution of the regulatory regime, emergence of new competitors and new technologies. Vodafone is still of the view that in order to achieve the best outcome in the most efficient manner a review every 6 months represents the best solution.

Should Telecom's Significant Market Power be included in the market definition?


In its submission (para 17), Vector suggests the inclusion of an additional test element into the market definition: significant market power. While we understand the concept in principle, it could prove to be very difficult to gather tangible information, facts and evidence in order to demonstrate that Telecom has SMP in a particular market. A similar approach has been taken

in the electricity market in order to assess SMP in a specific geographic area. We understand that the amount of time and effort to deliver a quality outcome in that instance was significant.

It is Vodafone's view that the industry needs to take a practical and efficient approach to competition assessment. We do not believe that including SMP in the Commission's considerations will deliver a significantly different outcome, however, it could delay the final decision.

Please feel free to contact me in relation to this cross submission if any clarification would be helpful.

Yours sincerely,



Celine Gilbert
Industry Affairs Manager
Vodafone New Zealand Limited

