

Appendix 3: Proposed Service Descriptions

The following sets out proposed amendments to the service descriptions for roaming and co-location on cellular mobile transmission sites.

Roaming Service

The following provides a draft service description for a revised regulated roaming service.

| | Existing wording | New wording |
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| <i>Description of service:</i> | A service that enables an end-user who subscribes to a network operator's (operator A's) cellular mobile telephone service to use services (except value-added services) generally accepted internationally as second generation cellular mobile services that are provided to the public by another operator (operator B), within the area where operator B has a cellular mobile telephone network (which must not be a third generation cellular mobile telephone network), but which is outside the coverage area of operator A's cellular mobile telephone network | A service that enables an end-user who subscribes to a network operator's (operator A's) cellular mobile telephone service to use services (except value-added services), including voice and SMS , that are provided to the public by another operator (operator B), within the area where operator B has a cellular mobile telephone network (which must not be a third generation cellular mobile telephone network); but which is outside the coverage area of operator A's cellular mobile telephone network |
| <i>Conditions:</i> | All the following: <ul style="list-style-type: none"> a) the access seeker must not already have the agreement that provides for national mobile roaming with any cellular mobile telephone network operator in New Zealand; b) there must be no separate determination (whether pending or existing) regarding roaming onto a network other than the network in respect of which the access seeker seeks access; c) the access seeker must have rolled-out a new cellular mobile network that covers no less than 10% of the area in which the New Zealand population normally lives or works. However, the access seeker may apply for a determination from the Commission before achieving the roll-out threshold as long as all the other applicable conditions set out in paragraphs (a), (b), (d) and (e) are met; d) the Commission must have approved a plan for the access seeker. That plan must include – <ul style="list-style-type: none"> (i) the establishment of roll-out milestones to be met by the access seeker to continue to access the national roaming service; | All the following: <ul style="list-style-type: none"> a) the access seeker must not already have the agreement that provides for national mobile roaming with any cellular mobile telephone network operator in New Zealand;¹ b) there must be no separate determination (whether pending or existing) regarding roaming onto a network other than the network in respect of which the access seeker seeks access; c) the access seeker must have rolled-out a new cellular mobile network that covers no less than 10% of the area in which the New Zealand population normally lives or works. However, the access seeker may apply for a determination from the Commission before achieving the roll-out threshold as long as all the other applicable conditions set out in paragraphs (a), (b), (d) and (e) are met; d) the Commission must have approved a plan for the access seeker. That plan must include – <ul style="list-style-type: none"> (i) the establishment of roll-out milestones to be met by the access seeker to continue to access the national roaming service; |

¹ This is inconsistent with the new Act; namely that clause 10(1) of the Telecommunications Amendment Act (No 2) 2006 removed the exclusionary provision of s.22(a) which provided that an access seeker may not apply for a determination if it has a commercial agreement for supply of the regulated service.

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| | <p>and</p> <p>(ii) the provision for roll-out of a new national mobile network service is specified:</p> <p>e) the Commission must be satisfied that the access seeker has the capability to comply with the agreed network roll-out plan</p> | <p>and</p> <p>(ii) the provision for roll-out of a new national mobile network service <u>that covers no less than 70% of the New Zealand population</u> is specified:</p> <p>e) the Commission must be satisfied that the access seeker has the capability to comply with the agreed network roll-out plan</p> |
| <i>Access provider:</i> | A cellular mobile telephone network operator who operates a cellular mobile telephone network | [Unchanged] |
| <i>Access seeker:</i> | An existing or potential cellular mobile telephone network operator (except Telecom or Vodafone or their successors or subsidiaries) that holds sufficient radio spectrum rights to enable that operator to roll out a nationwide cellular mobile telephone network in New Zealand | [Unchanged] |
| <i>Access principles:</i> | The standard access principles set out in clause 5 | [Unchanged] |
| <i>Limits on access principles:</i> | <p>The limits set out in clause 6 and additional limits, which must be set by taking the following matters into account:</p> <p>a) whether the access provider has, for each relevant cellsite within an area, sufficient available capacity to provide the service, taking into account its reasonable anticipated requirements for capacity at that cellsite:</p> <p>b) all legal requirements and all existing contractual obligations that the access provider has with third parties:</p> <p>c) the requirement on the access provider to provide the service to the access seeker will cease on the earlier of –</p> <p>(iii) any failure by the access seeker to comply with the agreed network roll-out plan, as determined by the Commission; or</p> <p>(iv) any other events specified by the Commission in its determination</p> | [Unchanged] |
| <i>Additional matters that must be considered regarding application of section 18:</i> | The Commission must establish roll-out milestones and roll-out thresholds that ensure that the access seeker has strong incentives to roll-out its national cellular mobile network in an efficient and timely manner | The Commission must establish roll-out milestones and roll-out thresholds that ensure that the access seeker has strong incentives to roll-out its national cellular mobile network in an efficient and timely manner |
| <i>Initial Pricing Principle</i> | n/a | Benchmarking against prices for similar services in comparable countries that result |

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| | | from the application to networks that are similar to the access provider's cellular mobile network of a forward-looking cost-based pricing method |
| Final Pricing Principle | n/a | TSLRIC |

Co-location on cellular mobile transmissions sites

The following provides a draft service description for a revised regulated co-location service. Should the Commission recommend that the Minister accept Vodafone's undertaking (or a variant thereof), in addition to making the service a designated service, the access provider definition would also need to be amended to exclude Vodafone.

| | Existing | New |
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| <i>Description of service:</i> | A service that enables co-location of cellular mobile telephone network transmission and reception equipment (including any necessary supporting equipment on or with the following facilities (relevant facilities)): <ul style="list-style-type: none"> a) any towers, poles, masts, or other similar structures – <ul style="list-style-type: none"> (i) that are used for the transmission or reception of telecommunications via a cellular mobile telephone network; and (ii) that are owned, managed, or leased by the access provider; b) all sites, buildings, or utility services that are associated with the kinds of structures referred to in paragraph (a) | [Unchanged] |
| <i>Conditions:</i> | Nil | [Unchanged] |
| <i>Access provider:</i> | Every person who operates a cellular mobile telephone network | Every person who operates a cellular mobile telephone network (except Vodafone or their successors or subsidiaries for the duration that a registered undertaking from Vodafone is active under Schedule 3A). ² |
| <i>Access seeker:</i> | Any person who – <ul style="list-style-type: none"> a) operates, or is likely to operate, a cellular mobile telephone network; and b) seeks access to the service | [Unchanged] |
| <i>Access principles:</i> | The standard access principles set out in clause 5 | [Unchanged] |
| <i>Limits of access principles:</i> | The limits set out in clause 6 and additional limits, which must be set by taking the following matters into account: <ul style="list-style-type: none"> a) the access provider's current and reasonable forecast requirements | [Unchanged] |

² Suggested wording in the event that the Minister accepts a recommendation: (i) to accept the Vodafone undertaking; and (ii) maintain co-location regulation for all access providers other than Vodafone.

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| | <p>for capacity on the relevant facilities:</p> <ul style="list-style-type: none"> b) the management of existing or potential radio spectrum interference arising from use of the relevant facilities: c) all relevant requirements under the Resource Management Act 1991: d) all relevant health and safety requirements under any enactment: e) all existing contractual obligations to third parties, including lessors of land on which relevant facilities are located: f) the interests of third parties who use the relevant facilities | |
| <i>Additional matters that must be considered regarding application for section 18:</i> | Nil | [Unchanged] |
| <i>Initial Pricing Principle</i> | n/a | Benchmarking against prices for similar services in comparable countries that result from the application to networks that are similar to the access provider's cellular mobile network of a forward-looking cost-based pricing method |
| <i>Final Pricing Principle</i> | n/a | TSLRIC |