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Dr. Ross Patterson
Telecommunications Commissioner
Commerce Commission
44-52 The Terrace
WELLINGTON

BY EMAIL

Dear Ross

Vodafone Co-location Undertaking

We refer to the Commerce Commission's (the **Commission**) investigation under the Telecommunications Act 2001 (the **Act**) in relation to potentially moving the mobile co-location service from a specified to a designated service.

We enclose a signed undertaking from Vodafone New Zealand Limited (**Vodafone**), pursuant to Schedule 3A of the Act, in relation to the mobile co-location service. We also enclose a copy of this undertaking, marked to show changes to Vodafone's draft undertaking of 31 August 2007.

In this letter, we describe the substantive changes that we have made to the undertaking.

Separate undertakings for mobile co-location and national roaming

Please note that we have created two undertakings under Schedule 3A of the Act, one in relation to mobile co-location (enclosed) and one in relation to national roaming (sent under separate cover to the Commission).

We do not believe this impacts on the substance of the undertakings, as compared to our draft undertaking of 31 August 2007. The enclosed mark up shows the changes that were made to achieve this separation.

Non-price terms

Following discussion at the conference of non-price terms relating to mobile co-location, Vodafone has reviewed the targets and timeframes in the co-location service for local loop unbundling (LLU) and considered the extent to which such principles might be applicable in the mobile co-location context.

While there are obvious similarities between the processes involved in LLU co-location and mobile co-location, we have found that:

- The build timeframes set out in section 9 of the LLU Co-location Implementation Plan and section 18 of the Co-location Operations Manual relate to commitments on the part of the Access Provider (Telecom) to carry out various types of builds. In mobile co-location, it is the Access Seeker who undertakes its own building, such as installing antennas onto the Access Provider's mast, or laying foundations to erect its equipment cabinet.
- There is a requirement on the Access Provider (Telecom) in LLU co-location to implement the co-location service in a specified number of exchanges per quarter (section 10.1.4 of the Co-location Implementation Plan). In mobile co-location, the Access Provider is not providing or implementing a service; it is providing space which the Access Seeker chooses to use and rolls out (by building) itself. If construction of a replacement mast is required to accommodate the Access Seeker's requirements, then the parties agree a work plan for that site, within specified time frames (clause 12 of the Master Co-location Agreement (MCA)).
- In relation to the timeframes for soft launch specified in section 5.2 of the Co-location Implementation Plan, the Co-location Code (Code) already provides for a process which operates as the equivalent for mobile co-location. Preliminary engineering issues are addressed during the detailed feasibility study stage and, once the Access Seeker has installed its equipment, testing by both parties takes place on a site-by-site basis. It is at this stage that any soft launch type issues are addressed, some of which are different in the mobile co-location context. Since the Access Provider in mobile co-location is not providing a service, issues relating to service provision (such as faults) do not arise. Rather, the issues that are likely to arise relate directly to the fact that the parties have co-located equipment (and interference is an example of an issue that might arise). Sections 38-41 of the Code provide for timeframes which both parties commit to for the feasibility study stage of the process and section 8.6 of the MCA deals with interference issues.
- Most of the commitments set out in Appendix 1 of the Co-location Service Level Terms are already reflected in the Code (or the MCA). The flowchart in Annex 2 of the Code sets out detailed timeframes which both parties commit to, from the early stages in the co-location process until the Access Seeker is ready to build. Clause 8 of the MCA sets out the procedures (with timeframes) which both parties must follow in the event either party wishes to undertake maintenance or an outage. There are no fault management procedures in the Code since the Access Provider is not providing a service.
- LLU co-location involves the linking together of two networks (as well as physical co-location) and mobile co-location does not.

- The principles of prioritisation set out in Section 8 of the Co-location Operations Manual are reflected in the queuing policy set out in paragraph 28 of the Code, which includes reference to the non-discriminatory access principle set out in the Telecommunications Act 2001.

In summary, we did not find any LLU targets or KPIs relevant for mobile co-location which are not already addressed in the Code.

Any targets or KPIs which go beyond the Code would need to be defined, measurable and within the control of the party which commits to them. Vodafone is happy to consider any such additional targets or KPIs, however in the mobile co-location context we have had difficulty in defining what they would be, and how they would be measured. If the Commission is of the view that additional targets and KPIs could be defined and measured for mobile co-location, then we are happy to consider these. Given that this is likely to involve amending the Code, we consider that the TCF is the appropriate medium to progress this.

Pricing terms

We have retained the pricing set out in the previous draft undertaking. We believe the issues around mobile co-location are primarily non-price issues, and in any case consider that the pricing terms in Schedule 2 are fair and reasonable.

If the Commission has any questions regarding this letter or the undertaking itself, then please do not hesitate to contact me.

Yours sincerely,



Tom Chignell
General Manager Corporate Affairs