

GoTel
29 Beresford St
Bayswater
Auckland

7th March 2007

Dear Sir/Madame,

Below are our observations on Vodafone's application for an undertaking dated the 19th January 2007.

On the surface it looks good that Vodafone are enabling competition that would both benefit New Zealand and increase their shareholder value. As always, the devil is in the detail, and we would like to raise the following that may cause one to question their motives.

Pricing

The prices they offer are very high when compared to what they get from their retail customers.

Our personal plans with Vodafone gives us the following rates (GST exclusive) and all we have to do is commit to spending \$35.50 (\$39.95 GST incl) per month and don't have a term contract.

- On Net Voice Calls i.e. 2 legs 12.4cpm (6.3cpm per leg)
- On Net SMS i.e. 2 legs 5.1cpt (2.5cpt per leg)

These rates represent 71% lower voice and 74% lower SMS rates than they offer to the potential access seeker

On a simple prepay plan, On Net voice rates (again 2 legs) are 43.6cpm representing a 1.3% discount to retail for access seekers. Compared to the prepay plan, the access seeker would pay a 6.9% premium (yes premium) on SMS.

If an access seeker's customer is roaming on the Vodafone network and receives a call from a customer on another network, Vodafone will receive 21.5cpm from the access seeker and a termination fee from the originating network; assuming the MTR is 21.5cpm. Vodafone is now receiving at least 100% more revenue from this type of call excluding any increase in incoming revenue resulting from having the access seeker on their network – very nice! Does this go against the long held principle in New Zealand that calling party pays?

The rates on offer represent bad value from a wholesale point of view as they are at a premium to retail, in fact one would have to assume from a cost plus perspective that Vodafone will be making an even bigger premium.

Other Observations

- The application excludes WiMax/WiFi GSM roaming and we thought the Government wanted this.
- Payment of access a quarter in advance is not a term they apply to any other Vodafone customer and we wonder whether this would unduly punish an access seeker
- The notion of an access fee for wholesale customers seems a little heavy handed, but we guess that is their right.
- The access seeker will not have total control of how it goes to market as Vodafone has sole discretion over who can be a reseller for the access seeker. It also reads like the access seeker will not be allowed to enable MVNOs into the market. Are they using their market power to unduly influence competition at the retail level? We wonder if the New Zealand market is being held back. If we look at Ireland, it has mobile usage that is 120% higher than New Zealand with 70% higher ARPU's.
- There is inconsistency in the messaging charging i.e. SMS is charged per event and MMS is a normal data charge. Why?
- Excluding the access seeker from their 3G network does not make sense from an economic point of view as it is generally accepted that calls on a 3G network have a lower cost than on a 2G network due to the greater capacity on a 3G network. They must have some other reason to exclude an access seeker?
- The access seeker will pay all Vodafone's costs to set up the roaming service, even those that may have already been incurred. This seems very heavy handed and gives the access seeker no control over their costs. As both parties will benefit from a roaming agreement they should share the costs.
- They will not hand over roaming traffic over the access seeker's interconnect links requiring them to pay for special roaming links thus driving more costs into the access seeker's business.
- Their statement around keeping MNVO's out of the market under the guise of encouraging facilities based competition seems a little far fetched as the offer reads like they wish to discourage both.

There is a lot more in the offer that is heavy handed but we have covered off the main ones. To summarise:

- The prices are very expensive when compared to what one can get at the retail level from Vodafone.
- Charging for 2 legs does not seem quite right and goes against the principle of "calling party pays".
- They wish to exert undue influence over the access seekers go to market plans.

- Lots of the provisions seem to be designed to drive costs into the access seeker's business that could/would result in higher retail prices or making their business case fail thus keeping them out of the market.

In conclusion, if competition comes into the market it will be in spite of this and not because of this. We think the people of New Zealand deserve better than this.

Kind regards

Leonard O'Quigley
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GoTel