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6 December 2013

Dr Stephen Gale
Telecommunications Commissioner
PO Box 2351
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By email: stephen.gale@comcom.govt.nz

Dear Stephen

UCLL FPP consultation and timetable

Vodafone New Zealand Limited (**Vodafone**) has reviewed the consultation dates set out in the process and issues paper for the UCLL Final Pricing Principle released today (the **issues paper**).¹ That timeline contemplates:²

- a workshop with parties on 19 December 2013;
- submissions on the issues paper by 31 January 2014; and
- cross-submissions on the issues paper by 21 February 2014.

This is a fundamental change to the earlier indicated timeline. We are concerned that the proposed timetable is not sufficient to allow parties sufficient time to usefully engage on the complex issues which the Commerce Commission (**Commission**) has identified in its issues paper, as well as at the proposed workshop later this month.

The issues paper, which runs 47 pages and poses 43 questions to interested parties, seeks input on a number of the key assumptions going forward. As is observed in the issues paper, a TSLRIC cost model is "complex, with a multitude of decision-points that feed into its construction", and the issues paper seeks to highlight (and therefore consult on) certain aspects that the Commission considers "carry a greater level of materiality in terms of their price impact".³ As such, the decisions taken at this point are likely to have a fundamental impact on the outcome of this significant project, and we are concerned that inadequate engagement by parties early on in the process creates the potential for key issues to remain unsettled at later stages of the regulatory decision process, and a corresponding risk of ongoing and disruptive delay in later phases.

The challenges posed by such a short timeline are compounded by the proposed consultation dates over the holiday period. As it stands, the timeline will simply not allow the parties to apply the appropriate resource for engaging in the consultation process. Vodafone closes its offices for all

¹ Commerce Commission *Process and issues paper for determining a TSLRIC price for Chorus' unbundled copper local loop service in accordance with the Final Pricing Principle* (6 December 2013).

² We note that an alternative timeline is proposed at paragraph [21] of the issues paper, in relation to specific questions concerning the UBA FPP process. In our view, submissions on these questions should align with the broader consultation process on the issues paper, and should be similarly extended.

³ Issues paper at [18].

staff from 20 December through until 13 January. The proposed timeline creates a material risk that the quality of submissions will be reduced at this important stage of the process, for a highly significant decision for our industry.

The importance of sufficient time for consultation is reflected in the Commission's earlier practice in relation to comparable matters. That is, taking into account the constraints of the Christmas holiday period, the proposed timeline is out of step with the consultation periods usually afforded to parties for similarly complex and important issues. For example, up to 8 weeks were afforded to interested parties in responding to the Commission's input methodologies discussion paper in 2009. During the last comparable FPP process, 7 weeks were afforded to parties to respond to the TSLRIC discussion paper in 2002. More recently, in 2009, parties were afforded 9 weeks to respond to the Commission's guide on regulatory decision making for the telecommunications sector discussion paper.

It is unclear to us why the Commission is seeking to accelerate progress on the UCLL FPP process now over the Christmas period rather than seeking parties input earlier in the year. We are not aware of any change to the underlying drivers of timeframe for this process, and absent these it does not seem reasonable to impose a timetable that will substantially affect our ability to engage.

Given the importance of this particular consultation process, Vodafone asks that the Commission reconsider the proposed timetable, to ensure that sufficient opportunity is given to all parties to adequately and fairly participate in the process. It is important that the timetable recognises the very real constraints of a consultation period that cuts through the summer holiday period on consulting parties (and the effect it will have on their people), especially when it imposed on such short notice.

Vodafone requests that the Commission:

- extend the submission date on the discussion paper from 31 January 2014 to 28 February 2014; and
- extends the cross-submission date to 21 March 2014.

In our view, parties will be in a better position to carefully consider and respond to the issues which are expected to be raised in the scoping and issues paper. Ultimately, it will support a higher quality decision-making process overall.

Yours sincerely



Chris Abbott
Head of Public Policy
Vodafone New Zealand Limited