



COMMERCE COMMISSION

Please refer to:

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15 January 2009

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Dear John and Richard

Mobile Co-location STD - Buildings and Rooftops

Thank you for your letter dated 9 January 2009 regarding the “rooftops” and “buildings” that are to be included in each Access Provider’s Common Format Site Database in accordance with the Commission’s Mobile Co-location Standard Terms Determination (‘STD’).

The Commission considers that the Mobile Co-location STD is clear on this matter. Clause 4.5 of the Mobile Co-location Implementation Plan requires all “Rooftop Sites” (buildings and rooftops) to be included in each Access Provider’s Common Format Site Database, regardless of whether the Relevant Occupation contains property rights which allow for co-location. This relates to the interpretation set out in paragraph 3(b) of your letter.

The Commission determined that because buildings and rooftops fall within the scope of “other similar structures” in accordance with the definition of “relevant facilities” in the Act¹ and are likely to be structurally capable of supporting the equipment of multiple network operators, such sites are to be included in each Common Format Site Database. As noted in paragraph 71 of the STD however, although a building that is used for the transmission or reception of telecommunications via a cellular mobile telephone network is likely to be classified as a Mast, only that part of the building that is subject to the Access Provider’s Relevant Occupation is *available* for co-location in accordance with the Mobile Co-location Terms.²

Although an Access Provider’s right to occupy or possess a building or rooftop site may not provide for sub-leasing or sub-licensing to an Access Seeker, the Commission considers that

¹ Telecommunications Act 2001, Part 3, Schedule 1, “Co-location on cellular mobile transmission sites”.

² The location of Access Seeker equipment on the same building, but outside the Access Provider’s area of Relevant Occupation, is classed as co-siting.

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this in itself does not prevent co-location from occurring within the area of Relevant Occupation. Co-location under these circumstances is provided for in the Mobile Co-location Terms. Specifically, section 16 of the Mobile Co-location Operations Manual provides for an Access Seeker to seek written consent from the landlord for the grant of a sub-lease or sub-license, if this is required.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'Tom Forster', with a long horizontal flourish extending to the right.

Tom Forster
Manager
Telecommunications Branch