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Dr. Stephen Gale
Telecommunications Commissioner
Commerce Commission
PO Box 2351
Wellington 6140

Dear Stephen

Timetable for UBA price review

Thank you for your letter dated 6 March 2013 seeking our view of the implications for the timetable of UBA price review of the Government's recently announced review of the policy framework for regulating telecommunications services in New Zealand ("the framework review").

We note that it is the Minister's intention to extend the implementation date for the cost-based UBA price set by the Commission and the deadline for the Commission to complete the UBA review to no later than 30 November 2015 to allow time to give effect to any changes recommended by the regulatory review. The Minister intends that this extension will be implemented through legislative change to be made by the end of 2013.

In our view, nothing in this announcement alters the Commission's existing obligations in relation to the UBA STD review or how it should proceed. The legislative framework within which the Commission must operate remains unchanged.

Section 77 of the Telecommunications Act 2011 requires it to complete its review of the UBA Standard Terms Determination before the expiry of 1 year from separation day. Although the Commission has exceeded this deadline, it remains the case that it must make reasonable efforts to complete its review of the UBA Standard Terms Determination as expeditiously as possible:

- Section 77 creates a presumption that the Commission will complete its complete its review of the UBA Standard Terms Determination quickly and without unreasonable delay.
- Section 78(3) Telecommunications Act envisages that review of the UBA Standard Terms Determination will, in all events, be completed by 1 December 2014 (the availability of a right to pricing review from this date would otherwise make no sense).

- Nothing in the Minister's statement relieves the Commission of the requirement to act expeditiously and in the manner clearly expected by current legislation.

We consider that any delay in reaching a decision now would be inappropriate and unreasonable, not least in light of the efforts already made by all parties to support reaching a final decision as quickly as possible.

Finally, we consider that completing the UBA Standard Terms Determination review and setting a final cost based price for the UBA service is likely to materially assist the framework review. We believe that this review will face significant analytical challenges. These are likely to be more pronounced if the UBA copper input price, likely to be highly material to assessments of competition and investment incentives contemplated by this review for example, remain unset.

For these reasons, our very strong view is that the Commission should proceed according to its recently updated timetable and reach a final decision between 15-30 June 2013. If, as is indicated, the Commission intends to hold a conference then Vodafone will attend this.

Yours sincerely



Chris Abbott
General Manager – Public Policy