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5 February 2013

Simon Thomson
Manager
Regulation Branch – Telecommunications
Commerce Commission
PO Box 2351
WELLINGTON 6140

BY EMAIL AND HAND

SECTION 42 TELECOMMUNICATIONS ACT 2011: APPLICATION FOR PRICING REVIEW IN RESPECT OF DESIGNATED ACCESS SERVICES

Pursuant to section 42 of the Telecommunications Act 2001 ('the Act') notice is hereby given seeking a **pricing review determination** for a designated access service.

Enclosed is the required initial payment of \$22,500 (inclusive of GST).¹

We acknowledge that we may be required to meet any additional application costs incurred by the Commerce Commission ('the Commission'). We agree to make periodic payments, as invoiced, to reimburse the Commission for a portion of the costs it incurs in completing the determination requested. Furthermore, we acknowledge that in relation to the application and the determination we may be required to meet some or all the costs that were incurred by the other party to the determination (including costs incurred by the Commission that were invoiced to the other party).

DETERMINATION DETAILS

The person giving notice

1. Pursuant to section 42 of the Telecommunications Act 2001 ('TA01') notice is hereby given by Vodafone New Zealand Limited ('Vodafone') that it seeks a review of that part of the *Final determination on the benchmarking review for the unbundled copper local loop service* issued by the Commission on 3 December 2012 (Decision No. NZCC 37) ('the

¹ We understand that this initial contribution to costs may be refundable on a pro rata basis.

Determination') that relates to the geographically averaged monthly rental price for the unbundled copper local loop service ('UCLL service'). The Determination sets this price at \$23.52 from 1 December 2014.

2. All enquiries regarding this application should be made to:

Chris Abbott
General Manager Public Policy
Vodafone New Zealand Limited
PO Box 1694
WELLINGTON 6140
Mobile: +64 21 190 6690
Email: chris.abbott@vodafone.com

PRICE AND SERVICE DESCRIPTION

3. Vodafone applies for a review of that part of the Determination (as defined above) that relates to the price to be paid for the UCLL service (as defined above). Specifically, we seek review of:

- a. the updated geographically averaged UCLL service price of \$23.52;
- b. the revised UCLL connection charges; and
- c. those parts of the Determination that constitute the Commission's decision and provide its reasons for setting i) a geographically averaged UCLL service price of \$23.52 and ii) revised UCLL connection charges.

JUSTIFICATION FOR APPLICATION

4. Vodafone is making this application for pricing review on the basis that it is directly liable to pay the updated geographically averaged UCLL service price of \$23.52 set by the Determination. The Determination has set the price at which Vodafone may acquire the UCLL service from Chorus going forward. Vodafone is therefore a party to the Determination and is directly affected by the UCLL service price set by the Determination. Consistent with this status, Vodafone contributed fully to the administrative procedure leading to the Determination. More generally, Vodafone has a clear and obvious interest in the Determination's conclusions on the level of the UCLL service price and the reasoning that supports these conclusions.

PARTIES TO DISPUTE

5. The nature of the interests affected by this application and any decision made pursuant to it is very limited. The consequence of this application is that the Commission must recalculate the price payable for the UCLL service in accordance with the applicable final pricing principle. In doing so the Commission is, therefore, making a narrow technical decision that affects only those entities that are party to the transaction for payment of the UCLL service price (i.e. payors or payees)
6. We consider that only parties who are actually or potentially liable to pay or to receive the UCLL service price set by the Determination have an interest in this application. Other entities that participated in the administrative procedure leading to the Determination but who are not involved in the payment or receipt of this price do not, in our view, have a sufficient interest in the outcome of this pricing review to merit involvement in the Commission's administrative procedure.
7. On this basis, other parties that have an interest in this application are:
 - a. Chorus; and
 - b. other RSPs who are actually or potentially liable to pay the UCLL service price set by the Determination.

REQUIREMENTS FOR APPLICATION

8. This application complies with the requirements set out in section 43 TA01.

TERMS OF DETERMINATION

9. Vodafone believes that the UCLL service price that would be determined by application of the relevant final pricing principle may more closely approximate underlying service costs and therefore be lower than the price of \$23.52 set by the Determination. We further believe that setting the UCLL price with reference to the relevant final pricing principle, and closer to underlying costs, would better promote competition to the long term benefit of end users, consistent with the principal purpose of legislation (see section 18 TA01).
10. We have not completed all of the analysis necessary to support an estimate of the UCLL service price that would be set under the relevant final pricing principle. We will complete work on this analysis to be shared with the Commission as soon as possible. In addition, we have not completed our consideration of any additional terms, conditions or actions that ought to be included within the Determination. Again, we will finalise these considerations and share them with the Commission as soon as possible.

Confidentiality

11. This application does not contain any confidential information.

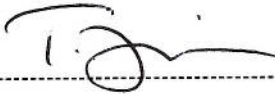
DECLARATION

This application is made by me, Tom Chignell, on behalf of Vodafone New Zealand Limited. I confirm that

- all information specified by the Commission has been supplied;
- all information known to the applicant which is relevant to the consideration of this application has been supplied; and
- all information supplied is correct as at the date of this application.

Vodafone's undertakes to advise the Commission immediately of any material change in circumstances relating to the application.

Dated this 5th day of February 2013



Tom Chignell
General Manger Corporate Affairs
Vodafone New Zealand Limited

I am an officer of the company and am duly authorised to make this application.