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1 May 2009

Mr Brian Johns
Ministry of Economic Development
WELLINGTON
By email: brian.johns@med.govt.nz

Dear Brian,

Submission on the proposed variation to Telecom's Operational Separation Undertakings

This letter is Vodafone's submission in response to the Minister for Communications and Information Technology's call on 17 April 2009 for public submission on Telecom's proposed variation of the company's Operational Separation Undertakings. No sections of this letter are confidential.

Vodafone is pleased that the Minister decided to seek feedback from industry stakeholders as to whether the proposed variation meets the purposes set out in Part 2A of the Telecommunications Act 2001.

At this stage Vodafone has not had sufficient time to fully consider the proposed variation due to the volume of other issues in train. With large projects of this kind we have had experience with in the past, we note that issues often arise during the implementation and delivery phases of such projects. It may therefore be that we subsequently identify concerns during the implementation and delivery phases, including negative consequences which might arise out of the changes which have not been identified by Telecom in its proposal. We would expect Telecom to undertake to address any such issues which subsequently arise.

The biggest concern Vodafone has with the proposal is the significant risk of delay to complete the technical system changes. In relation to this, Telecom has agreed to provide Vodafone with documented risk mitigation plans should that risk eventuate. It might be appropriate for such plans to also be provided to the government and all access seekers.

Part of the mitigation plan that Telecom has agreed with Vodafone is to keep us briefed on a regular basis as to progress. This is in the process of being established, along with a working forum between Vodafone and Telecom Wholesale, to work through current process issues with the relevant services.

We understand that in the event of further delay against the revised milestones, financial penalties could be imposed by the regulator. However we note that these penalties are not likely to benefit Vodafone and other access seekers while we continue to suffer from sub-optimal service and lack of equivalence, disadvantaging our end user customers. It may therefore be appropriate for the government to consider ways in which access seekers could

be appropriately compensated, perhaps from the penalties incurred should there be further delay.

Please feel free to contact me in relation to this letter if any clarification would be helpful. In this regard, I can be contacted by telephone on 021 2750003 or via email at david.diprose@vodafone.com.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Diprose', written in a cursive style.

David Diprose
Head of Fixed Line Regulatory
Vodafone New Zealand Limited