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Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission
WELLINGTON

Dear Commissioner,

Submission on Standard Term Determinations

1. Vector welcomes the opportunity to submit on the Commerce Commission's consultation paper "Draft decision on consequential changes to Commerce Commission Standard Term Determinations" (Draft Standard Terms), 12 October 2011. No part of Vector's submission is confidential and we are happy for it to be publicly released.
2. Vector agrees with all the preliminary views expressed in the Draft Standard Terms.
3. Vector has particular concerns about Chorus' proposal to require access seekers to bind end-users to Chorus' Residential Terms; which we consider lacks merit or legitimate commercial foundation:
 - a. Vector agrees with the Commission that Chorus has not provided sufficient evidence that the proposed changes are necessary. Vector is not persuaded by any of the arguments Telecom proffers in its undated letter to Telecommunications Commissioner "Residual issues not agreed though the TCF STD review process."
 - b. Vector is not aware of any other network infrastructure providers that impose a requirement on retailers that their end-user customers must have contracts with both the retailer and the network infrastructure provider. Why should Chorus have rights that other network infrastructure providers do not have?
 - c. Vector has contractual arrangements either directly with property owners or the retailer, established at the time that Vector places assets on the property owner's premise. Contracts with end-users will not necessarily achieve the purposes Chorus' intends; particularly as the end-user is not necessarily the property owner and, accordingly, does not necessarily have the authority to grant Chorus the access arrangements etc it is seeking.
 - d. Chorus' proposed terms impose conditions that may simply not be enforceable and end-users would not necessarily be able to fulfil. For example, a person residing in a rental property is not able to continue to grant access after they have moved out of the property (assuming they even

could when they resided on the property) “for as long as any of our network is located on or at your property premises, no matter where you live and whether or not you continue to receive services from a service provider”.

- e. Vector considers that such terms could potentially have anti-competitive affect, and act as an impediment to wholesalers or other network service providers providing access seekers with services which, in part, rely on Chorus’ services or infrastructure.

Service providers may, for example, want to be able to provide services using a mix of their own network and Chorus network infrastructure. What they will tend to want to ensure is that the service they provide is seamless and indifferent to the platform they use. It will be undesirable for any service provider to have to require differential terms depending on whether Chorus’ network is used; particularly given Chorus may be both an access provider and competitor.

No wholesale service provider is likely to want to require their customers to force their end-user customers to have a contractual relationship with Chorus.

- f. It would also be contrary to the spirit of Chorus separation obligations if it has direct contractual relationships with end-users.
4. Our concerns with the proposed end-user conditions are exacerbated by Chorus’ proposal that the onus be placed on the access seeker to demonstrate “to the reasonable satisfaction of the LFC” that they have taken steps to ensure all end users will be bound by the LFC (End User) Terms (clause 2.2).
 5. If the Commission has any queries regarding Vector’s submission or would like further information please contact Robert Allen, Senior Regulatory Advisor, on 09 978 82088 or robert.allen@vector.co.nz.

Kind regards



Bruce Girdwood
Regulatory Affairs Manager