

COMMERCE COMMISSION

Please refer to:

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29 April 2008

Tom Chignell
General Manager Corporate Affairs
Vodafone New Zealand
Private Bag 92161
Auckland

Dear Tom

Locking of mobile handsets

At our meeting on 4 April 2008, we discussed Vodafone NZ's intention to implement a policy whereby mobile handsets purchased from Vodafone NZ stores will be locked. These handsets will be able to be used only on the Vodafone NZ network until such time as they are unlocked. While I understand that the locking policy is yet to be implemented, I note that the Terms and Conditions for both your 'Prepay' and 'On Account' services now include clauses to this effect. The clauses of particular relevance are Clause 12(f) ('Prepay' Terms and Conditions) and Clause 13(f) ('On Account' Terms and Conditions), which state:

"Our Mobile Devices are sold exclusively for use on and may be locked to our network. Locked Mobile Devices may not be used with another telecommunications service provider's SIM card. If your Mobile Device is locked to our network, you must only arrange to unlock it through us and may have to pay an unlocking fee. If you arrange to unlock your Mobile Device through someone other than us, this may void the warranty for your Mobile Device."

I also note Clause 8(q) ('Prepay' Terms and Conditions) is of relevance:

"If you wish to use your Prepay Mobile Device as an On-Account Customer or with another GSM network, a charge may apply to modify the Mobile Device and/or SIMcard for On-Account use or for use with another GSM network."

The Commission has as we discussed, reviewed international practice in relation to handset locking. As you are probably aware, the practice is prohibited in some jurisdictions, regulated in some, and permitted in others.

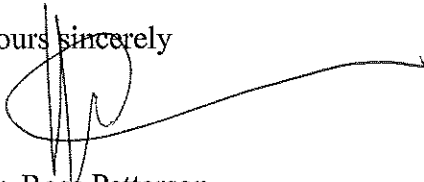
In the context of the New Zealand market, I am concerned that locking of mobile handsets may act as a barrier to mobile customers switching between service providers, and may therefore restrict competition on price and service. It is the Commission's view that a locking policy, if implemented by Vodafone NZ, would undermine recent and ongoing efforts to promote competition in the mobile market.

The Commission is also concerned about the timing of the introduction of Vodafone NZ's locking policy, given the likelihood of additional competition in the provision of GSM-based mobile services in the near future.

Given the adverse impacts that handset locking is likely to have on competition in the mobile market, the Commission does not support the introduction of handset locking in New Zealand. Accordingly, I would like to take this opportunity to encourage Vodafone NZ to reconsider its policy of introducing handset locking into the New Zealand mobile market.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Dr. Ross Patterson', written over the words 'Yours sincerely'.

Dr. Ross Patterson
Telecommunications Commissioner