

COMMERCE COMMISSION

24 February 2012

Mat Bolland
Director Corporate Affairs
Two Degrees Mobile Limited
PO Box 8355 Symonds Street

Dear Mat

Skinny mobile handset locking

We refer to your letter of 8 December 2011, expressing 2degrees' concern at the possibility of Telecom Skinny introducing handset locking into the New Zealand market place, and our meeting on 22 December.

As you are aware, the Commission has previously expressed its concerns regarding the locking of mobile handsets. In April 2008, the Commission wrote to Vodafone regarding its intention to implement a handset locking policy for all mobile devices purchased at its stores:

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, would undermine recent and ongoing efforts to promote competition in the mobile market.

...

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.

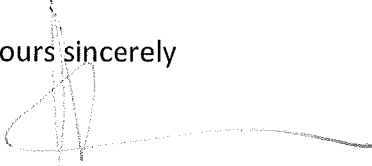
The Commission continues to have concerns regarding the potential anti-competitive effects of handset-locking, particularly where handset locking reduces the ability for customers to exercise their choice, or where it might negatively impact on the benefits of the LMNP (local-mobile number portability) determination. However, we also recognise that in certain circumstances handset-locking can have consumer benefits.

The Commission has previously considered whether contract lock-ins may be consistent with competition. The Commission concluded that a lock-in period that reflects the recovery of subsidised costs, and which is transparent to consumers, is unlikely to undermine competition.

It is our understanding that handset locking will apply only to Skinny prepay customers provided with subsidised handsets, that the handsets may be unlocked at any time subject to a \$30 fee during the first nine months, and that consumers will be given an unlocking code without charge thereafter.

Given the current proposal is limited in application as noted above, the Commission will monitor the competitive impact of the Skinny handset locking offer on the mobile market, as part of its overall market monitoring function.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dr Ross Patterson', with a long horizontal flourish extending to the right.

Dr Ross Patterson
Telecommunications Commissioner

CC: Paul Mathewson 2degrees, John Wesley-Smith Telecom.