Submission by TPG Telecom Limited (TPG)

to

Australian Competition and Consumer Commission

Mobile terminating access service (MTAS)
Final access determination discussion paper
(Discussion Paper)

1. TPG makes the following submissions in response to the MTAS Discussion Paper.

2. TPG's views regarding price regulation of the MTAS are as follows:

   (a) We believe the current MTAS rate is well above actual costs and there is room for the MTAS rate to be lowered. The extension of the currently above-cost MTAS rate is not in the LTIE and the ACCC should move as quickly as possible to rectify this.

   (b) There is little evidence to suggest that MNOs' profits have been reduced by the regulated reduction of the MTAS. Any potential "waterbed effect" (if it ever existed) is no longer a risk due to the trend in all countries towards an increase of MTM traffic. This means that there is a more compelling case now for regulation to lower the MTAS rate since the unintended consequences of regulation are less likely to arise. [1]

   (c) TPG believes that a cost-based approach to pricing the MTAS will promote allocative efficiency in downstream markets where it is an essential input and promotes competition in these markets and will therefore be in the long term interest of end users (**LTIE**).

   (d) The ACCC has set out a number pricing methodologies and models that could be employed to determine the most efficient MTAS rate. TPG considers that, while developing a specific MTAS cost model is likely to yield a reliable and robust estimate of the cost of providing the MTAS, the fact that these models take time and money to construct and the technologies are developing quickly so as to make the models outdated, suggests that a more instinctive approach should be taken.

   (e) An instinctive approach in the MTAS context is that the marginal costs of mobile termination of any kind (i.e., MTM, FTM and SMS) are close to zero.

   (f) Such a simple marginal cost approach would be both cost and time effective and would readily generate a price to promptly give industry certainty and promote the LTIE.

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[1] Genakos, Christos and Valletti, Tommaso M., "Evaluating a Decade of Mobile Termination Rate Regulation", July 2014. Centre for Economic Performance (CEP) Discussion Paper No 1282. Available at: http://cep.lse.ac.uk/pubs/download/dp1282.pdf (ISSN 2042-2695).

(g) Whilst a zero dollar termination rate has some economic rationality, TPG accepts that it may not be palatable to MNOs. Accordingly and in the LTIE, TPG considers an appropriate option is to use an MTAS rate that is equivalent to the terminating rates as fixed networks (i.e. the Fixed Terminating Access Service (**FTAS**) rate (currently 0.95 cents per minute) for a regulatory period of 3 years. During the 3-year regulatory period, industry and the ACCC can then take the necessary time and invest in the required resources to decide on and develop a rigorously robust, technology neutral, MTAS- specific cost model.

(h) Should the ACCC be minded to implement a glide path for the reduction of the MTAS rate to the FTAS rate (which TPG does not believe is required), then it would be appropriate for the start point of the glide path to be set at a rate which better aligns with Europe's mobile termination rates. The glide path should move towards the FTAS rate as the end point, over the three year regulatory period.

TPG's response to ACCC questions

<u>Fixed-to-mobile vs mobile-to-mobile termination</u>

1. *Are there different factors that should be taken into account in determining the pricing approaches for FTM termination and MTM termination?*

   TPG believes that the pricing approaches for FTM termination and MTM termination should be consistent and any resulting pricing for the two rates should be uniform. There is no logical reason why a call from a mobile telephone service would or should cost more or less to terminate than a call from a fixed line service.

   TPG notes that because fixed line only operators do not have their own mobile network, they are required to pay MNOs the applicable MTAS in respect of <u>all</u> FTM calls supplied to its retail customers. In contrast, an integrated operator, who operates both a fixed-line network and a mobile network, will only pay the applicable MTAS in respect of off-net FTM calls (i.e. calls from its fixed-line network to another operator's mobile network). Accordingly, high FTM rates will put fixed line only operators at a competitive disadvantage in the retail FTM market and act to constrain competition in that market.

   As noted in an OECD paper[2]:

   "Termination rates have an influence on the flexibility that operators have to structure their retail offers to meet the needs of their customers. The higher the rates and the greater the **asymmetry between rates**, the more difficult it is for networks to vary pricing based on per minute voice charges. **When termination rates are lowered, some service providers make available bundles with greater amounts of** airtime included, if they are wireless providers, for **calls to mobile networks if they are fixed network providers**." [Our emphasis added]

   Even where MNOs compete with each other vigorously, competition does not help to keep FTM termination rate low.[3]

   For these reasons, regulation to ensure an efficient, uniform price for the provision of both the MTM and FTM termination rates is essential.

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2 OECD (2012), "Developments in Mobile Termination", OECD Digital Economy Papers, No. 193, OECD Publishing at p. 4. Available at: http://dx.doi.org/10.1787/5k9f97dxnd9r-en.

3 See FN 1 at p. 4.

Voice termination vs SMS termination

2. *Are there different factors that should be taken into account in determining the pricing approaches for voice termination and SMS termination?*

   TPG does not have a view on this matter.

Mobile market changes since the 2011 MTAS FAD

3. *How have developments in the mobile services market impacted on the pricing of the MTAS? Please give details and supporting evidence.*

   TPG concurs that the growth in the use of mobile data services has been a very significant development since the 2011 FAD Inquiry and this likely means that the portion of network costs that relates to providing mobile voice termination services is likely to have fallen since that time.

   It follows that current MTAS rates are well above costs and should be lowered to reflect real costs. As stated above, TPG believes that the MTAS rate should more appropriately be set at the same level as the FTAS rate.

   TPG does not agree with the ACCC's preliminary view that 4G networks are not directly relevant to the provision of the MTAS at this point in time because voice and SMS services are not currently offered over 4G networks. As the ACCC has noted, Optus expects that voice services could be provided over 4G networks as early as the end of 2015. In addition, Vodafone has just announced[4] that it will launch its Voice over 4G (also known as VoLTE) service in 2015 following trials to be conducted later this year. This timing is well within the usual 3-year regulatory period adopted by the ACCC for most access determinations and could even occur before the ACCC is able to complete the development of its chosen cost model.

   Given this, 4G technology should not be ignored when determining the MTAS pricing. To do so would be a waste of resources and an opportunity to set the most efficient MTAS rate that would best promote the LTIE.

4. *When will voice and SMS termination services be offered over 4G networks? How should the ACCC take this into account for the purposes of the MTAS FAD?*

   While TPG cannot directly comment on when voice and SMS termination services will be offered over 4G networks, as TPG has noted above, it is likely to occur sooner than the ACCC expects and very likely to happen within the next year.

Methodologies for pricing the MTAS

5. *Will the use of a TSLRIC or TSLRIC+ methodology to price mobile voice or SMS termination services promote the LTIE? Please explain your answer.*

   No. Not at this point in time. Refer to paragraphs 2(d) and 2(g) above.

6. *If a TSLRIC or TSLRIC+ methodology is used to price mobile voice or SMS termination services:*

   a) *cost allocation method should be used for allocating traffic-related common or costs?*

   b) *Which cost allocation method should be used for allocating organisational-level costs?*

   TPG has no further comments.

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[4] Vodafone Media Release, "Vodafone to build network of the future", 20 August 2014. Available: http://www.vodafone.com.au/doc/VodafoneToBuildNetworkOfTheFuture.pdf.

7. *Will the use of a pure LRIC methodology to price mobile voice or SMS termination services promote the LTIE? Please give reasons.*

   No. Not at this point in time. Refer to paragraphs 2(d) and 2(g) above.

8. *If a pure LRIC methodology is adopted, are there risks that the prices of other services offered by MNOs may increase? If so, how significant are these risks? Please give reasons and any supporting evidence.*

   TPG has no further comments.

9. *If the ACCC adopts a LRIC pricing methodology (i.e. TSLRIC, TSLRIC+ or pure LRIC), should it use an FLBU or actual costs model, or some combination of the two? Please give reasons.*

   TPG has no further comments.

10. *If the ACCC uses a FLBU model, should actual costs be used to cross check the outputs from the model? If so, how would any discrepancies be resolved in determining the costs to be used in setting prices?*

    TPG has no further comments.

11. *How will regulated pricing for voice termination and SMS termination in Australia be assisted by:*

    (a) an international benchmarking study of regulated mobile termination prices adopted in other jurisdictions,

    (b) an international benchmarking study of mobile termination costs in other jurisdictions?

    In addition to any pricing method chosen by the ACCC to determine the MTAS rate, international benchmarking should also be employed by the ACCC as a 'litmus test' to further ensure that any rate resulting from the chosen cost model is an efficient price for the provision of the MTAS, relative to the rest of the world.

12. *What are the important factors that need to be taken into account in developing a robust and effective benchmarking study?*

    As TPG considers that international benchmarking should be used as a secondary pricing tool, it need not be overly complex. It should however, as a minimum, have regard to a comprehensive set of relevant factors, including both the market and regulated mobile termination rates of the benchmarked countries and the market outcomes resulting from the adoption of those mobile terminations rates.

13. *Is it appropriate to restrict the benchmark set to jurisdictions that have adopted a particular pricing methodology, and if so, which methodology would be appropriate? Please give reasons.*

    Only when the ACCC is in position to decide on the pricing model it considers will most accurately determine the most efficient MTAS rate in Australia.

14. *Will a BAK arrangement for MTM voice or SMS termination services promote the LTIE? Please give reasons.*

    TPG does not have a view on this matter.

<u>Fixed-to-mobile pass-through</u>

15. *Are there other options for determining the price of mobile voice termination and SMS termination that the ACCC should consider? If so, please explain why.*

    TPG has no further comments.

16. *To what extent have reduced regulated MTAS rates have been passed-through to retail prices for fixed to mobile calls? Please provide evidence.*

TPG has made use of reduced regulated MTAS rates to improve its offering to the market. Prior to the reduction, TPG was not in a position to include in its Homephone and Broadband Bundles unlimited calls to mobiles. So consumers were required to pay additional charges for calls to mobiles. TPG now offers a bundle for $79.99 per month that includes unlimited standard national calls, local calls, **and** unlimited calls to Australian mobiles.

17. *Should integrated operators (i.e. operators of both mobile and fixed networks) be subject to a mandated pass-through of MTAS reductions? If so, how would this be implemented? Please provide reasons for your answer, including by reference to the LTIE.*

    TPG does not have a view on this matter.

<u>Transitional arrangements</u>

18. *What, if any, transitional arrangements should apply to potentially lower voice termination and SMS termination rates? Should there be different implementation times for potential reductions in regulated voice termination and SMS termination? Please give reasons, including by reference to the LTIE.*

    TPG does not consider there is any need for any transitional arrangement to lower MTAS rates to a level which is equivalent to the FTAS rate or a level which aligns with the European mobile termination rates. Refer to paragraphs 2(g) and 2(h) above.

<u>Duration of regulated terms and conditions</u>

19. *What is an appropriate regulatory period for primary prices relating to mobile voice termination and for SMS termination?*

    TPG considers a 3-year regulatory period is appropriate.

20. *Should there be different commencement and expiry dates for mobile voice termination and SMS termination?*

    TPG does not have a view on this matter.