



30 May 2014

Domestic Mobile Terminating Access Service Declaration Inquiry
Australian Competition and Consumer Commission
MTASDeclarationinquiry@acc.gov.au

ACCAN thanks the ACCC for the opportunity to contribute to its Domestic Mobile Terminating Access Service (MTAS) Declaration Inquiry. The Australian Communications Consumer Action Network (ACCAN) is Australia's peak body for consumer representation and advocacy in communications. We represent residential consumers and small businesses including not-for profit organisations in so far as they are consumers. We endorse the ACCC's preliminary view that a declared SMS termination service should not exclude termination of Application to Person (A2P) SMS services.

As outlined in our previous submissions, ACCAN believes the ACCC's objectives in promoting the long-term interests of consumers would be best served by declaring voice services.¹ We also see the need for a declaration of SMS termination rates, including A2P SMS services based on the ACCC's assessment of the evidence.

The ACCC is more likely to find declaration of a service is in the long term interest of consumers where that service is an essential bottleneck service, and the market is not operating effectively (i.e. there are signs of market failure).² Optus indicated it had recently unsuccessfully attempted to negotiate lower wholesale SMS termination rates with other Mobile Network Operators (MNOs).³ On its own this would not necessarily indicate an inefficient market. However, when combined with high retail rates relative to low wholesale costs, the SMS market is cause for concern.

Inflated wholesale rates for SMS termination for A2P services are likely to be felt by small business operators. One example of how small businesses are currently using this type of SMS is when a hair salon uses a software application to send clients a reminder SMSs of their upcoming appointment. Small businesses are widely accepted as being innovators and drivers of change. However, like individual consumers, small businesses often do not have sufficient bargaining power to influence the MNOs on SMS rates.

The purpose of many A2P SMS is to support efficient operational procedures and to provide improved customer service within a business. For example, the ability to send a reminder SMS to a customer for a hair appointment improves customer service and reduces the resource impost on time poor small businesses. Small businesses can also use A2P SMS on slow trading days to reduce the downtime between clients, or gaps due to cancellations, by offering discounts to attract clients. Normally this kind of activity would be too resource intensive for a small business to undertake, but

¹ ACCAN, 2013, 'Review of the declaration of the Domestic Mobile Terminating Access Service', July 2013

² ACCC, 2013, 'Domestic Mobile Terminating Access Service Declaration Inquiry – Report of the ACCC's Draft Decision', 13 December 2013, p.32

³ Optus, 2013, 'Review of the declaration of the domestic mobile terminating access service (MTAS)', July 2013, p.3

with the aid of a cost effective A2P service, it is able to effectively compete with much larger businesses.

Given the similarity in market bargaining power between an individual consumer and a small business, A2P SMS should not be viewed differently, based only on the origin of the service.

Small businesses may choose to revert to social media or traditional voice methods to communicate with their clients as a consequence of inequitable wholesale pricing on A2P SMS, effectively stalling efficient operational practices. Given that small business operators are continually increasing their online presence and driving change in the areas of marketing and client communications, it is unacceptable that the monopolistic practices of MNOs could impact on the future dynamic efficiency of small business operators.

Once again ACCAN would like to thank the ACCC for the opportunity to contribute to the MTAS Declaration Inquiry. We endorse the ACCC's preliminary view that a declared SMS termination service should not exclude termination of A2P SMS services.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelly Lindsay', with a stylized flourish at the end.

Kelly Lindsay
ACCAN Project Officer, Small Business