



14 February 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. We endorse the ACCC's preliminary finding that mobile voice and SMS termination services should be declared for five years.

As outlined in our previous submission ACCAN believes the ACCC's objectives in promoting the long-term interests of end-users (LTIE) would be best served by declaring voice services.¹ We also see the need for a declaration of SMS termination rates based on the ACCC's assessment of the evidence.

As the ACCC noted in its discussion paper, it is more likely to find declaration of a service is in the LTIE 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 be indicative of an inefficient market. However, when combined with high retail rates relative to low wholesale costs, the SMS market is cause for concern.

In their MTAS submissions MNOs claimed commercial-in-confidence over the wholesale SMS termination costs; as such ACCAN is left to draw conclusions based on information which is publicly available. The *2007 WIK Consult on Mobile Termination Cost Model for Australia* created a theoretical model which assumed 432 SMS could be sent per minute of voice calls provided using a 2G mobile network.⁴ This indicated there is a large capacity for the networks to handle SMS relative to voice calls. This is not inconsistent with New Zealand Commerce Commission (NZCC) findings, which stated "An incoming SMS is always handled when the network has idle capacity and therefore does not require additional dimensioning".⁵ In turn this means the relative cost of an SMS theoretically should be a small fraction of the cost of a voice call.

Using the WIK data, we can estimate the profit margins on this service. The current voice call termination rate of 3.6 cents per minute (cpm) represents the cost of the called party half of a call, so doubling this rate, to include the calling party half, would place the total cost of a voice call at

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

⁴ WIK- Consult, 2007, 'Mobile Termination Cost Model for Australia', Report for the ACCC, January 2007, p.106

⁵ Commerce Commission, 2011, 'Standard Terms Determination for the designated services of the mobile termination access services (MTAS), fixed-to-mobile voice (FTM), mobile-to-mobile voice (MTM) and short messaging service (SMS), Decision 724', 5 May 2011, p.98-99

7.2cpm. Based on the WIK research the same minute of network time could be used to send 432 SMS, which would equate to a rate of 0.0167 cents per SMS.

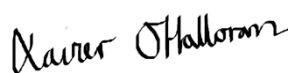
While bundling makes it difficult to determine a margin between this wholesale cost and the retail price, there are a handful of 'non-included value' plans on the market which are illustrative. For example Virgin Mobile's \$29 Prepaid Simple plan offers \$29 worth of credit and charges SMS rates of 15 cents each.⁶ Using the theoretical cost for a single SMS established above, this equates to an overall profit margin of more than 99% for each text message.

Optus says the reason for this disparity is a lack of competition in the wholesale market, stating "at the moment, the SMS termination rate is set at a level that has little or no relationship to the actual efficient cost associated with supplying the service".⁷ This has clear repercussions for market efficiency. There is little incentive for a lone provider to reduce their termination prices as this would lead to an imbalance in termination revenues without any resultant benefit.

Inflated wholesale rates for SMS termination are likely to be felt most acutely by low income, older Australians and people with a disability. These segments of the population are far less likely to have access to substitutable smartphone-based Over The Top (OTT) services for messaging. According to ACCAN research, 53% of consumers who earn less than \$60,000 a year have a smartphone, compared with 76-78% among those earning over \$60,000.⁸ Meanwhile smartphone usage among the 55+ category is 39% compared with 85% among 18-34 year olds.⁹ This disparity also exists among deaf consumers who have a 47% usage rate compared with 64% among the rest of the population.¹⁰ It is unacceptable that the monopolistic practices of MNOs are impacting most on those who are less equipped to pay.

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 finding that mobile voice and SMS termination services should be declared for five years.

Sincerely,



Xavier O'Halloran
ACCAN Policy Officer

⁶ <http://www.virginmobile.com.au/prepaid-mobile-phones-plans/compare/> NB: This plan also includes 100MB of data, a more accurate

⁷ Optus, 2013, 'Optus additional submission on declaration of SMS termination — Public Version', 15 August 2013, p.4

⁸ ACCAN, 2013, 'Consumer Perceptions Survey', McNair Ingenuity Research, August 2013

⁹ ACCAN, 2013, 'Consumer Perceptions Survey', McNair Ingenuity Research, August 2013

¹⁰ ACCAN, 2013, 'AFDS (Australian Federation of Deaf Societies) Mobile Phone Survey'