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Australian Competition and Consumer Commission
Via email to: telco.regulation@accc.gov.au

Re Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service

Aussie Broadband Limited (**Aussie Broadband**) welcomes the opportunity to respond to the ACCC's Discussion Paper (dated May 2023) on the public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access services. As the owner of Carrier Access Code (**CAC**) 1455 through our subsidiary Netsip Pty Ltd, we appreciate the opportunity to provide our views on the services discussed in the paper.

Domestic mobile terminating access service

Aussie Broadband strongly supports the ongoing declaration of the mobile terminating access service (**MTAS**) and the re-declaration of SMS under this service. We believe that further regulation of these services for a minimum period of five (5) years promotes market competition, encourages investment and levels the playing field for all carriers to the benefit of the long-term interests of end users.

Service description

Aussie Broadband is concerned that the current service description for MTAS requires some amendments to reflect current technology and welcomes the ACCC's consideration of an updated service description. The current service description wording, *"…to a B-Party directly connected to the access provider's digital mobile network."*, has created a loophole advantageous to mobile network operators (**MNOs**). MNOs argue that the term 'digital mobile network' in the service description means that carriers must operate a mobile network that mirrors their networks, i.e., including towers and radio spectrum allocated by Government. Aussie Broadband's experience is that MNOs are relying on this interpretation of the term to avoid routing numbers allocated to carriers by the ACMA, preventing any-to-any connectivity. It is our view that not only is the ongoing declaration of MTAS essential, but expansion of the service description is necessary to protect any-to-any communications and make clear to MNOs that they are obliged to route all numbers allocated by the ACMA. We believe this will foster greater investment and innovation, which is always in the long-term interest of end users.

The discussion paper rightly identifies the opportunity to remove reference to a 'digital mobile network' in the service description to reflect the current use of the service and align with the fixed terminating access service description. Aussie Broadband is supportive of this change and has provided a suggested amendment of the service description of MTAS at **Annexure A.** Our suggested redrafting of the service description replaces 'digital mobile network' with 'mobile number' to ensure it is as technology-neutral as possible, promoting any-to-any connectivity and clarifying MNO's obligations to provide interconnection.

SMS price concerns

In 2019, the ACCC removed SMS from the MTAS declaration, effectively deregulating SMS services. Prior to deregulation, the 2015 MTAS regulated SMS rate was 0.03 cents per message segment[1].

Since deregulation, the wholesale market for SMS has been largely stagnant, with no significant downward movement or competition on pricing. The removal of a regulated price point for SMS services has resulted in the emergence of what is effectively a fixed wholesale price point in the market.

This current wholesale SMS pricing is as much as 100x the previously regulated SMS rate, with a value of <Commercial in confidence> [redacted] <Commercial in confidence> This remains significantly above the previously regulated price of 0.03 cents per message. This material differential between the previous regulated and wholesale price is not linked to any change in underlying cost to provide this service, with non-MNOs expected to either absorb the cost or pass it through to the end-user.

While the increased wholesale cost of SMS following deregulation has had negligible impact, either positively or negatively, on retail SMS prices for consumers due to the proliferation of 'unlimited'-style SMS plan allowances, and the vast majority of this SMS traffic being from MNO to MNO, the effect on non-MNO carriers is significant. This is seen primarily in the application-to-person SMS space. Aussie Broadband's retail business sends over 700,000 SMS a month for provisioning, service appointments and customer support, as well as multi-factor identity verification, as required by the *Telecommunications Service Provider (Customer Identity Authentication) Determination 2022* (Cth). The deregulation of SMS unfairly disadvantages Aussie Broadband and other challenger carriers when compared to the top three (3) NBN providers, who also all happen to be MNO's.

In the 2019 inquiry, the ACCC found services such as over-the-top (**OTT**) messages or in-app messages to be possible substitutes to application-to-person SMS[2]. Aussie Broadband disagrees with this suggestion. OTT messaging services and in-app messages are rarely used in business-to-consumer communication and are as such unsuitable alternatives. Consumers are unlikely to connect with businesses using OTT messaging platforms as they are generally not considered an official channel for communication and pose privacy and security risks, while in-app messages rely on a consumer having and using the relevant application. Aussie Broadband argues that this is not in the long-term interest of the end user, and reregulation would reduce costs and promote a fair and open market for carriers who wish to operate in this space.

Competition issues

Rising costs caused by the deregulation of the SMS portion of the MTAS declaration have a flow-on effect on the competitiveness of the entire market. Without regulation over SMS, there is currently no framework to ensure that smaller providers or new entrants to the market can compete with monopoly carriers. As a result, few carriers hold the market share of these services and are effectively able to charge as they please. Alternatively, the reregulation of SMS services is an effective way to foster competition, promoting the provision of services to consumers in a competitive manner, which is to the benefit of the end-user.

Declaration will also promote efficient investment in infrastructure, a key consideration of the ACCC in this consultation. Regulation of services provides carriers with the confidence to invest, knowing that the regulatory framework exists to support competition, compliance, and enforcement. Aussie Broadband agrees with the ACCC's position that the declaration of MTAS "*promotes the efficient investment in infrastructure used to provide interconnection services by ensuring operators are able to recover the efficient cost of investment at a normal commercial rate of return."*[3] The ACCC has previously found the declaration of MTAS to be in the long-term interests of end-users for numerous reasons—alignment of wholesale pricing to the efficient cost of service, any to

[1] ACCC, Final Access Determination No. 1 of 2015 (MTAS), ACCC, Australian Government, 2015.
[2] ACCC, Mobile terminating access service declaration inquiry – 2018: Final Report, ACCC, Australian Government, 2019.
[3] ACCC, Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Discussion Paper, ACCC, 2023, p. 48.

any connectivity, efficient use of, and investment in infrastructure—we believe these findings are still applicable today.

Fixed originating access service, Fixed terminating access service

Aussie Broadband is firmly in support of the fixed originating access service (**FOAS**) and fixed terminating access service (**FTAS**) remaining as declared services to ensure ongoing any-to-any connectivity for consumers, a key requirement of the ACCC's declaration enquiry. The current regulation of these services is successful and benefits both carriers and the long-term interests of end-users, and we are supportive of the declaration remaining in place for a further five (5) years at a minimum. Aussie Broadband recommends that the service description for FTAS be amended to better apply to the current use of the service and evolving technology.

Service description

As is the case with MTAS, the FTAS service description requires updating to reflect the current technology environment and should be amended to stay abreast of industry changes. Aussie Broadband has provided a suggested redrafting of the description at **Annexure B** within the Commission's paper**.**

Amendments include clarification that calls can terminate on either a geographic number or an inbound number, such as 13/ 1300/ 1800 numbers, to align with the industry trend toward calls to inbound numbers shifting to a terminating access model. Secondly, the service description should be redrafted to be clearer that in a Terminating Access model, the A-party number is largely irrelevant, and the intention is to include geographic numbers, mobile numbers or any other valid A-party number. In Aussie Broadband's redrafting of the service description, we have also included changes to allow for newer technology, namely TDM and SIP interconnect.

Importance of any-to-any connectivity

The ACCC's discussion paper notes that "*despite the trends away from fixed line services for voice calls towards mobiles and over-the-top services, there are still consumers, particularly outside of the NBN fixed line footprint that continue to rely on analogue telephones and VoIP landlines delivered through ADSL*."[4] The ACCC states that these consumers are generally in remote areas with poor mobile coverage or the elderly, who comprise a significant proportion of fixed-line services users.

In addition to these consumer groups, we argue that a vast number of Australian businesses and workplaces also rely on fixed voice services and have not migrated to mobile services. The ACCC notes in the discussion paper, with regards to these consumer groups in particular, that "*fixed termination and fixed originating access services may still be important as a means of achieving any to any connectivity*"[5]; and Aussie Broadband agrees that this is, in of itself, sufficient reason for it to be continued to be declared. It is imperative to maintain regulation for these services to ensure that Australian businesses and consumer groups are not impacted negatively and so that consumers who may be vulnerable or under-served retain essential communications services. Ongoing regulation of this service promotes any-to-any connectivity for a significant segment of Australian consumers, and this is clearly of critical importance to the long-term interest of end users.

Warm regards,

Jay Binks
Co-founder NetSIP & EVP - Voice
Aussie Broadband Limited

[4] ACCC, Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Discussion Paper, ACCC, 2023, p.23.

[5] ACCC, Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Discussion Paper, ACCC, 2023, p.24

Annexure A

Revised service description
Domestic Mobile Terminating Access Service

The domestic terminating access service is an access service for the carriage of voice calls and short message service (SMS) messages from a point of interconnection, to an end-user (B-party) assigned mobile numbers from the Australian Numbering Plan.

The calling number (A-Party) can be any valid phone number (including geographic number, mobile number, or international number).

For the avoidance of doubt, MTAS applies to all networks operating ACMA-allocated mobile phone numbers, regardless of technology, architecture, or method of mobility.

Definitions

Where words or phrases used in the Declaration are defined in the *Competition and Consumer Act 2010* or the *Telecommunications Act 1997* or the *Telecommunications Numbering Plan 1997*, they have the meaning given in the relevant Act or instrument.

Other Definitions

B-Party is the end-user to whom a telephone call is made or an SMS message is sent.

A-Party is the end user who initiates the telephone call or sends the SMS message.

Point of Interconnection is the location which:

a) is the point of demarcation between the access seeker's network and the access provider's network, and

b) is associated with, but not necessarily co-located with, one or more gateway exchanges of the access seeker's network and the access provider's mobile network

Short message service (SMS) is the provision of messages up to 160 characters of text using capacity in the voice signalling channel of a mobile network.

Annexure B

Revised Service Description
Fixed Terminating Access Service

An access service for the carriage of telephone calls (i.e., voice, data over the voice band) from a point of interconnection to an end-customer (B-party) assigned geographic or inbound numbers (13/ 1300/ 1800) in the Australian Numbering Plan and directly connected to the access provider's network.

For the avoidance of doubt, the calling number (A-Party) can be any valid phone number (including geographic number, mobile number, or international number).

For TDM interconnection, as per previous FTAS Service Descriptions (unchanged).

For IP interconnection, as per the currently unfinished G6nn:202Y SIP Interconnect Guideline from Comms Alliance WC110, or by bilateral agreement until such a time that the standard is published.

Definitions

Where words or phrases used in the Declaration are defined in the *Competition and Consumer Act 2010* or the *Telecommunications Act 1997* or the *Telecommunications Numbering Plan 1997*, they have the meaning given in the relevant Act or instrument

Other Definitions

B-Party is the end user to whom the telephone call is made

A-Party is the end user who initiates the telephone call

Point of Interconnection (POI) is the location which:

a) Is the point of demarcation between the access seeker's network and the access provider's network, and
b) Is associated with, but not necessarily co-located with, one or more gateway exchanges of the access seeker's network and the access provider's digital mobile network