



June 19, 2003

Mr. Michael Cosgrave  
General Manager  
Telecommunications Group  
Australian Competition and Consumer Commission  
Level 35, The Tower  
360 Elizabeth Street  
Melbourne Centre  
Melbourne, VIC 3000  
Australia

Re: Comments in Mobile Services Review 2003

Dear Mr. Cosgrave:

The Competitive Telecommunications Association ("CompTel") requests consideration of these Comments in the pending Mobile Services Review before the Australian Competition and Consumer Commission ("Commission"). Although Comments were requested by Friday, June 13, CompTel appreciates the Commission's consideration of these later-filed Comments.

CompTel is the premier U.S. industry association representing competitive telecommunications carriers and their suppliers. CompTel has 22 years of experience working actively to advance telecommunications competition in the United States and other countries. With the development of liberalized regulatory regimes and competitive market conditions in a growing number of countries, many of CompTel's members have made significant investments in telecommunications facilities and services outside the United States, including in Australia.

CompTel welcomes the Commission's review of current fixed-to-mobile rates and regulatory environment. This review is timely and much needed. It is well established that each of the mobile operators in countries with a calling party pays system has market power over termination of calls on their networks. Given this market power, unless appropriate regulatory measures are taken, above-cost termination rates will be imposed by mobile network operators (MNOs) on carriers and end-users. Such above-cost rates

have enormous economic impact, harming end-users and distorting the allocation of investment funds among different sectors of the economy.

On January 9, 2003, CompTel presented its members' experiences in Australia to the United States Trade Representative ("USTR"), pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. § 3106 ("Section 1377"). In its Comments to the USTR, CompTel noted in particular that certain anticompetitive practices exist in the Australian market to the detriment of new entrant carriers. Specifically, the incumbent fixed and mobile network operators are charging excessive rates for fixed-to-mobile termination, in violation of Australia's commitment to World Trade Organization ("WTO") principles, which requires cost oriented interconnection rates. Specifically, while fixed-to-mobile termination has been determined to be a "declared service," it is regulated under a retail-minus methodology.

This approach has resulted in significantly above-cost fixed-to-mobile termination rates in Australia. In particular, Telstra's current rate of A\$0.245 (US\$0.12936)/minute for fixed-to-mobile termination is more than 13 times higher than the rate it charges for fixed-to-fixed interconnection. Moreover, Telstra's rate for fixed-to-mobile termination is three to four times above LRIC-based rates and more than 30% higher than the "best practice" rates in OECD countries. With expected rate reductions in other OECD countries to occur over the next 6-12 months, Australia will rise even further above such "best practice" rates unless appropriate regulatory measures are taken.

The incentive and ability of MNOs to act anti-competitively would be significantly reduced, if not eliminated, with the continued declaration of mobile termination access services and implementation of cost-based price controls on the mobile termination rates. Thus, CompTel urges the Commission to continue its declaration of GSM and CDMA services in order to promote a competitive market in the provision of fixed-to-mobile calling. The declaration should be modified, however, by replacing retail benchmarking with appropriate price controls. In particular, the Commission should develop a LRIC-based methodology for determining appropriate termination rates. Through LRIC-based rates the Commission will remove the marketplace distortions that are harming carriers and end-users alike.

Thank you for your kind consideration of CompTel's comments. Please contact me should you have any questions regarding this matter.

Sincerely,



Carol Ann Bischoff  
Executive Vice President & General Counsel  
Competitive Telecommunications Association (CompTel)