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Australian Competition and Consumer Commission
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Review of the Declaration of the Domestic Mobile Terminating Access Service

Your Reference

Our Reference IP 051403

Macquarie Telecom Pty Limited (“**Macquarie**”) appreciates the opportunity to make this submission to the Australian Competition and Consumer Commission (“**ACCC**”) concerning the above review. This submission arises from the ACCC’s email communication to stakeholders which provides the ACCC’s preliminary view that a declared SMS termination service should not exclude termination of A2P SMS services.¹

The email communication sets out the ACCC’s reasons for including A2P SMS services in the SMS termination declaration. In particular, Macquarie notes the ACCC’s finding that the risk for either increased spam or network congestion arising from including A2P SMS services in the declaration is “small”.

Macquarie strongly supports the ACCC’s finding. Moreover, Macquarie reiterates its view as expressed in an earlier submission to the ACCC on this matter that concerns with the inclusion of A2P SMS services, i.e., increased spam and network congestion are “more illusory than real”.² Accordingly, Macquarie supports the ACCC’s preliminary view that a declared SMS termination service should not exclude termination of A2P SMS services.

Macquarie urges the ACCC to formally finalise its decision on the declaration of the mobile terminating access service (“**MTAS**”). Macquarie notes that the ACCC’s draft decision on this matter was promulgated in December 2013, which is more than five months ago. Macquarie considers this to be an extraordinarily long period of time given the relatively non-controversial nature of this matter.

Further, Macquarie urges the ACCC to commence its inquiry into the price terms for the MTAS as part of the ACCC’s inquiry to make a final access determination (“**FAD**”) for the MTAS which it has recently commenced. The current FAD expires on 30 June 2014, as such, it is inevitable that the ACCC will not have new MTAS prices finalised in a FAD before that date. Given that MTAS prices are on a very clear steep downward trajectory, it is also inevitable that any delay in finalising MTAS prices will be materially disadvantageous to

¹ email from Damien Kelly 23 May 2014 (“**email communication**”)

² Macquarie, Submission to ACCC, Review of the Declaration of the Mobile Terminating Access Service, 16 April 2014 (reference IP 041402)

access seekers. Macquarie submits that this is unacceptable.

Macquarie also notes that while the ACCC will eventually set rates for MTAS and SMS in its FAD there is no requirement for the expected lower prices for these services to be passed-through to end-users. That is, access seekers like Macquarie and their customers will not directly benefit from any price reduction as determined by the ACCC unless there is a mechanism that mandates pass-through to access seekers and end-users. Accordingly, Macquarie urges the ACCC to provide such a pass-through mechanism in its FAD.

Please do not hesitate to contact me should you have any queries in relation to this matter.

Yours sincerely



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