



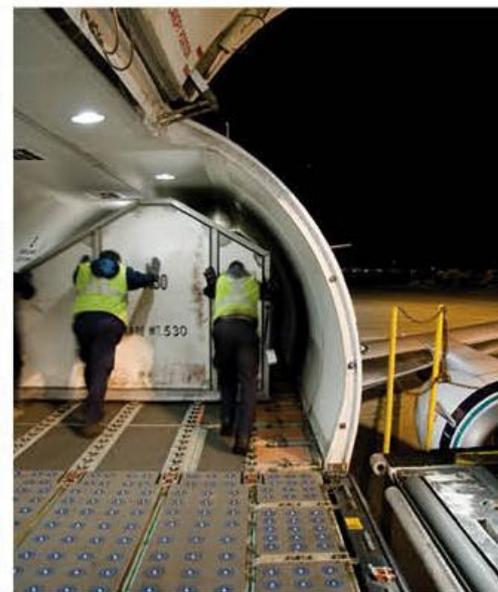
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REGULATORY OBSERVER

International and Australian regulatory
developments and decisions

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Singapore regulator says mobile operators cannot block or restrict OTT services

Singapore's communications regulator, the Infocomm Development Authority (**IDA**), has stated that mobile consumers must be given access to web content and apps, and internet service providers (ISPs) should not create barriers to block such access. The IDA issued the statement after the CEO of SingTel, Chua Sock Koong, urged regulators to allow carriers to charge over-the-top (**OTT**) providers such as WhatsApp and Skype for the use of their networks.

Speaking at the Mobile World Congress in Barcelona in late February 2014, Koong cautioned that the amount of investments telecommunications providers made in improving their networks could be drastically reduced unless they were given the right to start charging OTT players for using their networks. Koong said 'the main problem we have as an industry is we have been unable to monetise this increased demand [for OTT services]...and [average revenue per user] has fallen over time. I think the pace of change in our industry is relentless so clearly we can't afford to stand still. If we are not careful we could stand the risk of being totally disintermediated.'

A public backlash occurred in response to Koong's comments. SingTel responded by posting a statement on its Facebook page suggesting 'there seems to be some misunderstanding on this topic, so we thought we should clarify. SingTel would like to assure our customers that we do not plan to charge them separately for the use of services like WhatsApp.'

Following Koong's comments, the IDA confirmed that its general policy position is that consumers should have access to all legitimate content and applications on the internet. ISPs are not permitted to block or impose restrictions on such access, and should not implement charges or other measures that cause any legitimate web content to be inaccessible or unusable. The IDA has stated that ISPs are also not allowed to adopt internet traffic management practices that will compromise IDA's [Quality of Service standards](#) for internet access or any anti-competitive discriminatory practice that would harm consumers' interests.

The growing, international consumer trend towards utilisation of OTT services has been reflected in the Australian context. The [Communications Report 2012-13](#), released by the Australian Communications and Media Authority (**ACMA**), noted the number of people using Voice over Internet Protocol (**VoIP**) services via mobile phones increased by 73 per cent to reach 1.06 million, while the number of people using VoIP services via tablets increased by 150 per cent to reach 966,000, during the 2012-13 financial year.

International Regulatory Round-up

COMMUNICATIONS

Europe

UK: Ofcom publishes European Broadband Scorecard

The Office of Communications (**Ofcom**) has published its second [European Broadband Scorecard](#). The report finds that the availability of superfast broadband has increased in the UK from around 60 per cent at the end of 2011 to 73 per cent now. This has taken the country from third to first for coverage among the 'EU5' (France, Germany, Italy, Spain and the UK).

UK: National Audit Office releases report on 4G auction

On 12 March 2014, the National Audit Office published its [report](#) on the Ofcom's 4G auction. The report finds that the Ofcom 'achieved its objective of maintaining a competitive market with a number of competing providers in the first major sale of radio spectrum in over ten years'.

FRANCE: ARCEP consults on FttDP

On 7 February 2014, the *Autorité de Régulation des Communications Électroniques et des Postes* (**ARCEP**) began a [consultation](#) on Fibre to the Distribution Point (**FttDP**) architecture. This follows three meetings of a working group composed of operators, local authority associations and the relevant government departments examining the architecture. The

consultation relates to a summary of the working group's discussions.

Oceania

NZ: Commerce Commission consults on cost of capital

On 7 March 2014, the Commerce Commission of New Zealand (**CCNZ**) began [consultation](#) on its proposed approach to setting the rate of return on capital for the unbundled copper local loop (**UCLL**) network and the unbundled bitstream access (**UBA**) service. The CCNZ proposes to use the same general approach to the cost of capital that was developed for the regulation of energy networks and airports. This approach was incorporated in the 2010 cost of capital input methodologies (**IMs**) that were upheld in appeals to the High Court last year. Submissions are due by 28 March 2014.

NZ: Commerce Commission releases report on mobile phone plans

On 6 March 2014, the CCNZ released a [report](#) comparing prices for mobile services in New Zealand over the last year with prices in other Organisation for Economic Co-operation and Development (**OECD**) countries. The report found that the price in New Zealand for a plan with average calling and data use was 40 per cent below the OECD average.

NZ: Commerce Commission releases UBA issues paper

On 7 February 2014, the CCNZ released a [paper](#) outlining the proposed process for pricing Chorus's wholesale broadband – the UBA service – according to the 'Final Pricing Principle' in the *Telecommunications Act*. The CCNZ proposes to determine the UBA price by modelling the cost of providing the UBA service on Chorus's existing copper network,

or in some regions, on 'Rural Broadband Initiative' fixed wireless.

ENERGY

Europe

UK: Ofgem proposes new rules for energy suppliers and brokers

On 14 February 2014, the Office for Gas and Electricity Markets (**Ofgem**) released a [proposed code of practice](#) to further protect businesses from misselling by some energy brokers. The Ofgem's proposals will require suppliers to work only with brokers or Third Party Intermediaries (**TPIs**) that are accredited under the code if they want to market deals through them. TPIs include switching websites, energy brokers and energy efficiency advice providers who interact with energy consumers.

Oceania

NZ: Commerce Commission issues new information disclosure requirements for Transpower

On 28 February 2014, the CCNZ issued new [information disclosure requirements](#) for Transpower, the owner and operator of the national electricity transmission grid. Under the new requirements, Transpower will publicly disclose information about its investment and innovation, financial performance, pricing and network management.

TRANSPORT

Europe

EC: European Parliament supports Single European Sky

On 12 March 2014, the European Parliament voted to [support](#) the Single European Sky 2+ (**SES 2+**) initiative as a key move to accelerate the implementation of a Single European Sky. The initiative looks to head off a capacity crunch as the number of flights is forecast to increase by 50 per cent over the next 20 years. Inefficiencies in Europe's fragmented airspace are estimated to bring extra costs of close to €5 billion each year to airlines and their customers.

Oceania

NZ: Commerce Commission issues final report on Christchurch International Airport

On 13 February 2014, the CCNZ released its [final report](#) to the Ministers of Commerce and Transport on the effectiveness of the information disclosure regulation in relation to Christchurch International Airport. Overall, the CCNZ found information disclosure regulation appears to have had little influence on Christchurch Airport's conduct or performance.

WATER

Europe

UK: Ofwat announces results of pre-qualification tests

On 10 March 2014, the Water Services Regulation Authority (**Ofwat**) announced the results of its [pre-qualification tests for water and wastewater companies](#) as part of its 2014 price review. South West Water and Affinity Water

have pre-qualified for 'enhanced' status based on the high quality of their business plans. Both companies are now invited to accept Ofwat's guidance on risk and reward, including the cost of capital, which was published on 27 January 2014. If South West Water and Affinity Water accept the guidance and undertake a number of other limited actions, they will gain the advantages of enhanced status – including a fast-track through the price-review process.

Australian Regulatory Round-up

COMMUNICATIONS

Court confirms ACCC jurisdiction to arbitrate disputes

On 12 March 2014, the Federal Court handed down its decision on a judicial review application commenced by Telstra on 3 January 2014 against the ACCC and three access seekers. Telstra sought review of the ACCC's jurisdiction to arbitrate three disputes that were notified by Vocus Fibre Pty Ltd, Adam Internet Pty Ltd and Chime Communications Pty Ltd. Justice Flick rejected Telstra's argument that there was no failure to agree between Telstra and each of the access seekers, and accordingly found that there was a dispute which could be arbitrated by the ACCC.

ENERGY

ACCC opposes AGL's proposed acquisition of Macquarie Generation

On 4 March 2014, the ACCC [announced](#) that it will oppose the acquisition of the assets of Macquarie Generation by AGL Energy Limited (**AGL**). The ACCC considers that the proposed acquisition is likely to result in a substantial lessening of competition in the market for the retail supply of electricity in New South Wales. The key assets of Macquarie Generation are the Bayswater and Liddell power stations (together, these power stations account for 27 per cent of NSW capacity). AGL is already a substantial electricity retailer in NSW.

ACCC to adopt price monitoring role on carbon tax repeal

The ACCC has received a [Direction](#) under Part VIIA of the *Competition and Consumer Act 2010* from the Government to undertake a formal monitoring role in preparation for the repeal of the carbon tax post July 2014. The Direction takes effect from 1 March 2014 and remains in force until 30 June 2015. The ACCC is to monitor prices, costs and profits to assess the general effect of the carbon tax scheme in Australia. The focus of the Direction will be on suppliers of regulated goods, namely natural gas, electricity and synthetic greenhouse gases; and on corporations identified as liable entities under the *Clean Energy Act 2011*. There are approximately 400 firms subject to the Direction.

WATER

ACCC releases Draft Decision on pricing for bulk water supplied by State Water

On 5 March 2014, the ACCC released its [Draft Decision](#) on pricing for bulk water supplied by State Water Corporation in the New South Wales Murray-Darling Basin in the 2014-17 period. The Draft Decision results in lower water bills for most of State Water's customers. Relative to previous years, price increases are modest overall. In most valleys, bills for general security entitlement holders are falling. The ACCC is seeking submissions by 17 April 2014.

POST

ACCC does not object to Australia Post postage price increase

On February 20 2014, the ACCC announced that it had [decided](#) to not object to Australia Post's proposal to increase the prices of ordinary letter services, including the basic postage rate (**BPR**) from 60 cents to 70 cents. Australia Post plans to freeze the price of a basic stamp at 60 cents until 2017 for consumers with an Australian Government concession card. The ACCC is satisfied that the price rises will not result in Australia Post over-recovering the efficient costs of providing monopoly letter services.

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