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Dear Clare

Please find below Optus' comments in response to the submission of Thomson Geer on behalf of Message4U Pty Ltd (a bulk SMS aggregator).

Thomson Geer claims that the proposed changes to the service description would prejudice its client's bulk SMS aggregator business and thus damage the long term interest of end-users (LTIE). Optus does not accept this claim.

Optus proposed amendments to the draft Service Description in order to clarify the scope of the SMS element of MTAS. The proposed change does not alter the application of MTAS to the wholesale interconnection arrangements between telecommunications networks. Nor will it impact upon the existing commercial relationship between MNOs and SMS aggregators, which utilises direct on-net connections with MNOs.

The proposed amendments will discourage a disaggregated bulk SMS model, where aggregators find it advantageous to send bulk SMS to networks for which the aggregator has no commercial relationship. Optus has concerns over this as it limits an operator's ability to directly monitor and manage the behaviour of SMS aggregators through commercial contracts.

In summary, Optus finds that the proposed changes would have no impact on the business model of bulk SMS aggregators; there should therefore be no impact on the cost to send bulk SMS. Absent the proposed changes, there would be a real risk that the LTIE will be reduced through an increase in unmanaged bulk SMS.

Optus concludes that the LTIE with the proposed amendments would be greater than the LTIE without the amendments. This is explained in more detail below.

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## MTAS deals with wholesale network interconnection

Thomson Geer state that its client's "core business requires it to have ability to terminate SMS message on a mobile network that Message4U does not own or control".<sup>1</sup> Thomson Geer further state that the proposed changes would "limit the availability of these services by artificially inflating the prices charges for these services which are ultimately borne by end users".<sup>2</sup> However, such a statement does not accurately reflect how aggregators purchase services from MNOs and the differences between MTAS and retail services.

MTAS is not a retail arrangement between a mobile network and its own end-users. Moreover, the level at which MTAS is set does not impact on the on-net retail price. For example, should an Optus network subscriber make calls and SMS to another Optus end-user this does not involve MTAS as this is an Optus-to-Optus on-net call.

Bulk SMS aggregators utilise this on-net model for their service. An aggregator company sends bulk SMS messages on behalf of its clients using mobile numbers from each of the three MNOs. The aggregator would have an Optus allocated mobile number, a Telstra allocated mobile number, and a VHA allocated mobile number. When a client wishes to send out a bulk SMS, the aggregator looks up the Mobile Number Portability database to see which MNO the receiving number is subscribed, and then uses the allocated mobile number that corresponds to the receiving MNO to send on-net bulk SMS. The aggregator has a commercial retail contract with each MNO that sets out the retail charges that apply.

To be clear, Thomson Geer's client is an Optus retail customer with Optus-allocated mobile numbers that sends bulk SMS to other Optus end-users. This service is not dependent on MTAS. And the level at which on-net bulk SMS are charged is not influenced by the SMS termination rate. The SMS originates and terminates on the Optus network, so no interconnection is involved.

### [CiC]

Thomson Geer also state that a problem with Optus' proposed change to the service description is that it would "restrict the MTAS declaration, insofar as it applies to the termination of SMS messages, to SMS messages that originate from a mobile telephone network."<sup>3</sup>

Such a statement is incorrect. First, irrespective of whether Optus' proposal is adopted, SMS messages can only originate on mobile networks. The service aggregators use is one where Optus' SMSC sends an SMS to the end-user on the aggregators' behalf. The SMS originates and terminates on the Optus network. Second, as described above, the aggregation service is a retail service enabling bulk SMS to be sent to mobile end-users on each of the three MNOs without going off-net — it does not utilise MTAS. An aggregator can do this because it has negotiated retail contracts with each MNO. Businesses use aggregator services because the aggregator can provide bulk SMS at a lower price than the business itself could deliver. This is due to (i) guaranteed on-net traffic and (ii) large volume contracts with MNOs. The aggregator may also offer other value-add services to businesses which MNOs do not offer (such as dedicated websites or apps).

<sup>1</sup> Thomson Geer, Submission, p.2.

<sup>2</sup> Thomson Geer, Submission, pp.4-5

<sup>3</sup> Thomson Geer Submission, p.3

Optus reiterates that aggregators purchase retail services not MTAS from each MNO. The level of MTAS does not impact upon the on-net retail charges incurred by aggregators.

### **Disaggregated model likely to increase unwanted bulk SMS**

Thomson Geer state that its client is not involved in sending spam. To clarify, Optus is not making any claim that specific companies are producing spam messages.

Spam SMS remain a source of frustration for Optus end-users. As a result, Optus actively monitors its network for SMS spam to minimise the impact on Optus end-users. One type of spam is unwanted or excessive bulk SMS messages. Bulk SMS spam is a significant type of SMS spam on Optus' network.

Where an aggregator is a retail customer of Optus, Optus is able to manage spam-related issues through direct commercial relationship with that provider. However, should bulk spam SMS be sent by an aggregator connected to another MNO and sent off-net to Optus, Optus would be less able to effectively manage the issue. Optus would not have a direct contractual relationship with the off-net aggregator to regulate the sending of spam message.

The potential impact of low SMS termination rates on the level of bulk SMS can be seen by comparing the level of 'spam' bulk SMS originating offshore with that originating within Australia.

### **[CiC]**

Optus reiterates that the proposed changes to the MTAS service description will not impact on end-users' ability to benefit from a reduction in the level of SMS termination rates. But it will assist to ensure that end-users do not experience a jump in unwanted bulk SMS messages.

In conclusion, Optus does not accept Thomson Geer's claims that adoption of the revised MTAS service description would prejudice its client. The SMS Gateway Product used by Thomson Geer's client enables it to send bulk SMS' directly to Optus end-users through Optus' network. Optus understands that Thomson Geer's client has similar arrangements with the other MNOs. The MTAS is an inter-operator charge that plays no role in determining the level of retail charges for on-net calls or SMS.

If you have any comments or questions, please do not hesitate to contact me.

Regards

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