

# **ACCC Draft Report on Pricing Methodology for the GSM Termination Service PowerTel Submission to the ACCC**

## **1 BACKGROUND**

This document has been prepared in response to the Australian Competition & Consumer Commission's (ACCC) Draft Report on pricing methodology for the GSM termination service, which was released for public comment on 21 December 2000.

Prior to the release of the ACCC paper, PowerTel has made representation to the ACCC in relation to the current high level of wholesale mobile interconnection charges. PowerTel has provided detailed information in relation to the charges imposed for mobile termination services, has submitted information to enable a comparison across the following services:

- Fixed to mobile termination charges;
- Mobile to mobile retail charges; and
- Retail International charges.

## **2 COMMENTS ON THE ACCC DRAFT REPORT**

Under the current environment, the 3 incumbent GSM mobile network operators hold 99.4% of the market – that is, Telstra, C&W Optus and Vodafone. Although 2 other carriers have launched their mobile networks, Orange (CDMA) and OneTel (GSM), they have yet to win significant market share. It is of some concern that whilst the market shares of all 3 operators are significantly different, the wholesale pricing structure adopted by all of these operators is substantially the same. Retail prices are below wholesale costs. Thus it would appear that the charges imposed by these operators do not reflect the costs of providing terminating services for the declared service of GSM termination.

The ACCC has proposed an approach to determining GSM mobile termination charges by:

- Setting a benchmark price for GSM termination;
- The “starting point” proposed is apparently the lowest current access price for GSM termination as negotiated between a mobile carrier and a fixed line carrier; and
- This benchmark is subsequently adjusted against the percentage change of each mobile carrier's weighted average retail price.

While it appears that the ACCC has recognised that:

- the termination element of the mobile services market remains significantly above cost, and that fact suggests that some elements of the market are affected by market failure; and
- regulatory focus should be on access prices for GSM termination in relation to fixed to mobile calls

PowerTel remains concerned that the approach proposed by the ACCC will not result in any substantial adjustment to the current high rates towards a proper cost basis for at least the next two years. There is a significant risk that the ACCC's approach will only deliver extremely limited reductions in costs, given the current aggressive retail pricing packages available.

*(i) Pricing Methodology*

The most appropriate pricing methodology for wholesale carrier to carrier charges for mobile termination should be TSLRIC. Each of the three operators in the mobile market has substantial market share and presence. The wholesale termination service is a declared service, and constitutes a delivery bottleneck no different from a PSTN service. On the other hand, the retail market, which is extensively discussed in the ACCC's paper, does not consist of declared services and is therefore not the subject of the same regulatory concerns. True competition at the wholesale GSM termination level will only occur when all the networks are directly connected to each other, and each of the GSM carriers offers transit services to the others. This is not the case at present. The fact that effective competition exists at the retail level does not mean the lack of competition at the regulated wholesale level should be ignored.

The ACCC's proposed benchmarking approach recognises that current wholesale prices remain significantly above costs, and in fact any cost based approach. Yet the ACCC proposes to adopt those same inefficient price level as an appropriate starting point as its glide path approach. Clearly this is unsatisfactory, and some attempt should be made to derive a cost based approach.

PowerTel considers that if the ACCC is resolute in its decision to follow such an approach, as an alternative it should use the internal transfer pricing level used by vertically integrated fixed and mobile carriers as an appropriate benchmark. Furthermore, this price should be published in order to make it transparent to industry.

Similarly, where the ACCC is proposing to undertake a monitoring process, PowerTel requests the ACCC to make its findings transparent by making the information publicly available on a quarterly basis.

If such information is not publicly available, parties will not be assisted in concluding commercial negotiations, and add to the regulatory burdens already faced by the ACCC in conducting a large number of arbitrations on the same issue.

*(ii) Retail Pricing Activity vs Wholesale Interconnection Charges*

The ACCC's draft paper does not provide any detailed financial analysis of the spread of retail vs wholesale charges.

In previous submissions, PowerTel has provided the ACCC with information, which points to the widespread availability of pricing plans from each of the major carriers which indicate the wholesale level of interconnection charges remains distorted when compared with retail pricing. Under a number of the plans, it is clear that mobile carriers are able to offer a double-ended mobile to mobile charge for around 60% of a single ended interconnection termination service.

The ACCC Draft Report does not address this issue, or how its approach will deal with this anomaly in the short term. In fact, the ACCC's approach will provide a framework for ensuring the anomalies continue at least for another two years.

(iii) *Transit Services*

The ACCC has noted that other submissions refer to the availability of transit services as a "substitute" means of terminating particular mobile services. PowerTel considers that the availability of satisfactory transit services is largely illusory. Domestic transit services are simply priced at the current high wholesale rates with an additional margin imposed to recover so-called "additional" costs of providing those services. Hence the availability and suitability of transit services as an economically & technically efficient substitute for direct terminating services are irrelevant at this time.

(iv) *Closed User Groups*

PowerTel supports the ACCC's conclusions that the competitive forces from "closed user groups" is recognised to be relatively weak, and will not drive significant reductions in mobile termination charges in the near future.

In our view, the increasing number of pricing plans designed by mobile carriers to target "closed user groups" supports the growing consumer awareness of the prices of calls to mobile subscribers. However, the issue with such products is: will integrated mobile/fixed carriers ensure the timely flow on of such offerings to purely fixed line operators?

## **CONCLUSION**

The ACCC has proposed a way forward for the resolution of current distortions in the pricing of mobile termination services.

However, PowerTel's conclusions are that

- Cost based pricing is the most appropriate methodology for the GSM terminating service;
- The ACCC's proposed approach may institutionalise existing inefficiencies in wholesale carrier to carrier interconnection pricing for at least another two years;
- The approach does not provide industry with sufficient detail on the actual implementation of its proposals;
- the ACCC should re-assess whether its proposed "start point" on the glide path (lowest current fixed to mobile interconnection rate) is the appropriate point, particularly in the view of the existence of integrated mobile/fixed carriers, current retail tariffing and closed user group rates;
- If the ACCC is unwilling to consider a cost based approach immediately, it should provide industry with a clear statement regarding the timing of cost based interconnection pricing for fixed to mobile traffic. Industry is then clearly on notice that regulatory action will be taken to remove price distortions caused by market failure if industry is not able to implement suitable commercial arrangements within a defined timeframe.