

Speaking notes for Sydney Public Hearing 11.9.2003

3G Services

1. Hutchison's message today in relation to 3G is simple: regulation of 3G networks should be no different from regulation of existing GSM and CDMA networks.
2. Hutchison is concerned therefore by a regulatory regime that would seek to distinguish between services offered on a third generation network from services delivered via other mobile technologies.
3. So while the access regime should apply to regulate issues of interconnection, the provision of consumer content services, on the other hand, should be governed by the existing range of consumer protection measures only.
4. Let me explain briefly the distinction between "interconnection services " and "consumer content services" before outlining the importance of a technology-neutral approach. Interconnection services are those provided and acquired by telcos at the wholesale level, to ensure connectivity between networks. In contrast, consumer content services are those provided by the carrier directly to the consumer and involve no interconnection. Some examples of consumer content services are information services, video clips and games.
5. Before discussing the regulatory issues facing 3G networks it is useful to consider two fundamental questions: what are 3G networks? and what are 3G services?

3G Networks

6. There is some debate in the industry as to what can be classified a 3G network.
7. As a general proposition, 3G networks are similar to GSM and CDMA networks however they include network infrastructure and software which allows the network to achieve far greater rates of data transfer than existing GSM or CDMA networks.
8. Hutchison has built a new WCDMA network, however, it is possible to upgrade existing GSM or CDMA networks to achieve 3G standards. For example, Telstra has upgraded its CDMA network to the 1xRTTCDMA

standard and Vodafone and Optus have upgraded their GSM networks to provide a 2.5G GPRS service.

9. 2.5G networks (such as GPRS networks) and 2G networks share similar characteristics to 3G networks but 3G networks have additional capabilities.
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10. So while 3G has some differences, for the purpose of regulating interconnection it should not be treated differently from other technologies. This is consistent with the long-held policy underpinning telecommunications regulation, namely, the importance of a technology-neutral approach.

3G Services

11. Now I will describe 3G services in order to illustrate the need to distinguish between interconnection and consumer content services.
12. We are all familiar with some of the basic services offered on 3G networks such as:
 - voice calls;
 - SMS; and
 - MMS.
13. These services operate and have similar functionality to comparable services on 2G or 2.5G networks.
14. In addition to these “traditional” services, Hutchison uses its WCDMA network to offer its subscribers a suite of new data-rich services, such as:
 - **news** – subscribers can use their handset to access text stories or videos;
 - **sports** – subscribers can use their handset to access stories, videos and results;
 - **weather** – subscribers can access the latest weather information; and
 - **find and guide** – subscribers can use this service to access a map showing where they are or where they want to go.
15. Using the additional data capacity, Hutchison is also able to enhance some traditional mobile services. For example:

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- Hutchison offers unified messaging which allows subscribers to access **email or faxmail** from their handset in addition to **voicemail**;
 - the MMS service available on 3 allows subscribers to send not just **photos** but also **video messages**; and
 - in addition to making a voice call, 3 subscribers can make **video calls** to other video enabled handsets.

Regulation

16. That brings me to return to the opening question, what if anything, should be regulated?
17. 3G networks should be subject to no greater regulation than existing 2G and 2.5G networks. Bottlenecks in the provision of 2G services are regulated through the access regime. Those same bottlenecks exist in 3G networks and access regulation should be focussed accordingly.
18. What this means in a practical sense is that the terminating access declaration should be extended to 3G networks.
19. This is because the same competition issues arise in relation to voice services regardless of the network used to provide them. The Commission considered this issue when varying the GSM terminating access service declaration to include CDMA. The Commission concluded that the declaration should be technology neutral. Hutchison agrees and submits that the Commission should ensure that the declaration remains technology neutral.
20. Voice services share the common characteristic that they all require intercarrier agreements. In particular, each mobile carrier must enter into interconnection agreements with other carriers to ensure that calls can be terminated on other carriers' networks. A mobile carrier (or indeed fixed carrier) has no choice but to acquire terminating access services so subscribers can make calls to other networks.
21. In the situation where a carrier has control over an input which other carriers have no choice but to acquire, it is appropriate that there is regulation. In the absence of regulation, irrespective of the network technology there may be incentives for carriers to:
 - charge excessive prices; or
 - refuse to terminate voice calls to their network.

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22. Further, if one examines mobile termination from either a demand side or a supply side, there is no meaningful distinction that can be drawn between terminating calls to GSM, CDMA, GPRS, 1xRTT CDMA or WCDMA networks. Why should a call from a 3G customer terminating on a GSM network be subject to regulation, but when the GSM customer returns the call, it is not regulated?
23. It follows that regulation should be uniform across all networks.

Investment in 3G

24. There has been a suggestion that regulating 3G services in the same manner as 2G networks would remove an incentive to invest in 3G networks.
25. Hutchison rejects this argument. We have built and commenced operating the only 3G network in Australia. Regulation of interconnection services would not and has not affected Hutchison's decision to build its 3 network. In fact, we support the extension of the 2G declarations to retain a technology-neutral approach.

Access to content

26. I turn now to consider the group of services provided using Hutchison's WCDMA network specific to 3 subscribers. That is services which I described earlier such as news services, sports services, email and other information services.
27. These services are fundamentally different from voice calls, MMS and SMS. There are no other carriers involved in the deliver of these services to 3 subscribers. Accordingly the issues raised in the intercarrier context do not arise.
28. It would be misguided to embrace access based regulation in relation to these consumer services. An analogy can be drawn to fixed line services used to provide internet access. The ACCC regulates carriage services and facilities which provide access to the internet. For example, the Commission has declared the local loop service and the line sharing service, both of which are means to provide internet connection to consumers. The Commission has acted to address anti-competitive aspects of Telstra's wholesale supply of ADSL services used to supply internet access.

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29. However, the Commission has not sought to regulate the internet sites consumers access using their connections. In the 3G context, regulating 3G services such as news or sports is comparable to regulating internet content in the fixed line example.
 30. The Commission should regulate 3G interconnection services BUT it should distinguish these from 3G consumer content services. It would be both premature and create a concerning precedent to regulate consumer content services.
 31. While I don't believe consumer content services should be regulated; the acquisition of content upstream is another matter. Hutchison, and in due course others, must be able to offer compelling consumer content services; for example, AFL and other premium sports events. We need to be vigilant in ensuring that there are no upstream bottlenecks that threaten the supply of content to service providers. Hutchison sees that the Commission has an important role in closely monitoring developments in this area.
 32. Hutchison expects that graphics and content rich applications will drive consumer take-up of 3G services. Hutchison believes content acquisition issues are likely to arise in relation to telecommunications companies that have the following characteristics:
 - long term and exclusive arrangements with content suppliers;
 - universal base station and network coverage;
 - an extensive and existing customer base which can be used to leverage the supply of 3G services;
 - market power in the provision of other telephony services; and
 - extensive customer information and knowledge.
 33. The issue of access to content in relation to emerging multimedia technologies is not new. In the context of Pay TV, the Productivity Commission has reviewed this issue concluding that due to the rapidly changing nature of the industry and associated risks, the best strategy was to adopt a monitoring role. Hutchison believes the same approach should be adopted by the Commission in relation to 3G mobile services.

Conclusion

34. Let me conclude with Hutchison's simple message: regulation of 3G networks should be treated no differently than regulation of 2G and 2.5G networks.












What's on 3?



3 Communication Services

- Talk
- Videotalk
- Message Services
 - Voicemail
 - Email
 - Faxmail
 - Multimedia Messaging
 - SMS
 - Text Message
 - Picture Message
 - Video Message
 - Audio Message

3 Content Services

-  News
-  Sport
-  Weather
-  Comedy
-  What's On
-  Stars
-  Find & Guide
-  Today
-  Games
-  Tones&Pics
-  Finance