

# ACCC declaration inquiry

TPG Telecom  
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# It would not be in the LTIE to declare SMS termination

Overview of relevant matters covered in TPG's submission dated July 2023:

- Declaration of SMS termination would not be in the long-term interests of end-users (LTIE) and will likely result in significant consumer harm.
- Declaration would not promote competition because:
  - unlimited SMS is now the norm
  - alternative messaging platforms (eg iMessage) are available and constrain MNOs' incentives; relevantly the install base for OTT messaging services has increased to 75% in 2022 from 59% in 2019 based on ACMA data, and
  - available evidence show declaration and deregulation has had limited impact on retail A2P pricing.
- Any-to-any connectivity is already well-established in the context of SMS and there is limited incentives to withhold supply of interconnection.
- Declaration of SMS termination would lead to inefficient use of infrastructure due to scam traffic. Such traffic imposes wider social and economic costs on Australian consumers.
- International examples of not regulating SMS termination.

*Note: See TPG's submission dated July 2023 for additional detail. This presentation is intended to be read in conjunction with that submission.*

# No evidence of market failure to justify declaring SMS termination

- Retail prices have not increased since deregulation while wholesale prices have likely decreased.
- [c-i-c]

- [c-i-c]
- The ACCC noted retail prices have stayed steady following deregulation.
- Any negative commercial impact to Pivotel due to deregulation (as the ACCC indicated may happen in its decision to deregulate), does not mean there is market failure. Pivotel is not the market, as it seems to imply in its submissions.

# No evidence of foreclosure

- Pivotel's claim it is unable to gain access on reasonable terms does not appear to be supported by evidence.
- While TPG can only speak about its own experiences with negotiating with Pivotel, we would be surprised if other MNOs would refuse access. We have seen evidence of Pivotel originated traffic land on TPG's network via another interconnect partner.
- History with Pivotel: [c-i-c]

[c-i-c]

- In the event there is evidence a specific access provider is refusing interconnection, the ACCC has other powers (such as Part XIB) that it could use. Addressing specific actors for specific conduct would be the better approach in this case due to lack of any specific market failures and real downstream social and economic costs associated with regulation.

# Regulation has led to inefficient use of infrastructure in the past

- Evidence of the positive relationship between declaration of SMS termination and the increase in scam/spam SMS traffic is compelling.
- Declaration of SMS termination coincided with a significant increase in complaints and report to the ACMA about SMS spam. Frontier Economics provided analysis during the previous declaration inquiry.
- The ACMA's most recent data suggests the trend has reversed and is decreasing after the removal of regulation.
- TPG believes that the problem of scam traffic is now an enduring one. The cost for engaging in a scam operation is likely to continue to fall as AI tools become better and cheaper.
- The issue of scam traffic will become exponentially worse with declaration as MNOs will no longer have the ability to police some traffic landing on their networks.
- Pivotal's submissions regarding scam traffic lacks credibility. To give the ACCC a sense of the scale of this problem, [c-i-c]  
[c-i-c]

# Consumer benefit is put at risk if SMS termination is regulated

- TPG offers consumers unlimited international SMS [c-i-c]
- [c-i-c]
- This product can only exist if there is balanced volume of traffic at reciprocal rates between TPG and overseas networks directly. Where traffic volumes are equal between networks, costs are neutral to both networks.
- Increasingly, TPG finds traffic from overseas is being landed on TPG's network via domestic interconnect routes.
- TPG seeks to block these unauthorised routes into its network as an imbalance between the traffic TPG creates unsustainable costs to TPG.
- If SMS termination is regulated, there is even less ability for TPG to enforce unauthorised traffic landing on its network.
- The result may be unlimited international SMS is withdrawn and consumers are charged *à la carte* for this service.
- This outcome would not be in the LTIE.

