



Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Draft report

Twilio Comments

February 2024

Twilio welcomes this opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) on the ACCC's draft report on the public inquiry into the declaration of the domestic transmission capacity service, fixed line services, and domestic mobile terminating access service (Draft Report).

Twilio supports the ACCC's proposals to:

- extend the declaration of voice interconnection services;
- amend the mobile voice terminating access service (MTAS) to refer to 'termination on a mobile number' rather than a 'digital mobile network'; and
- vary the MTAS service description to include A2P SMS termination services.

We provide our perspective on these points below.

ABOUT TWILIO AND STATEMENT OF INTEREST

Twilio is a globally available cloud communications platform whose web service application programming interfaces (APIs) enable customers to quickly and easily build communications capabilities like SMS, voice calling, email, and webchat into their applications. Twilio enables millions of innovators, across every industry, to reinvent how their companies communicate and engage with their customers. Founded in 2008, Twilio has powered more than 1 trillion human interactions for more than 300,000 brands. Twilio is based in San Francisco, with offices located in Europe, Asia Pacific and the Americas.

In Australia and New Zealand, Twilio has over 13,000 active monthly customers using the Twilio API platform to create and deliver unique customer engagement experiences over SMS, voice calling, email and WhatsApp, at competitive cost and scale. Twilio's customers range from start-ups to the top 50 companies in Australia. We also support governments and nonprofits nationwide. From banks to insurance, surf lifesaving to guide dogs, and shipping companies to healthcare providers, a wide range of industries rely on our competitive SMS transaction costs to serve their customers' needs.

TWILIO COMMENTS

As we have noted in our previous submissions, regulation of MTAS for voice and fixed terminating access service has been and remains an important competitive constraint on network operators in arrangements for access to off-net customers. This has also been the case for SMS termination in the periods that it has been declared.

For context there are three ways in which Twilio may source mobile terminating access in order to supply voice or A2P SMS services to our customers:

- Via a direct carrier connection with each network operator, which could also be described as purchasing 'on-net' supply of wholesale voice and SMS termination services;
- Via a connection to a network operator which can originate voice calls or A2P SMS for termination on each other network operator's network, which could also be described as purchasing 'off-net' supply of wholesale voice and SMS termination services; and
- Via an aggregator, which has itself sourced bulk voice and A2P SMS termination services from various network operators through one of the above two methods – typically by purchasing on-net supply from each.

Continued declaration of voice interconnection services

In the Draft Report, the ACCC gave its preliminary views on continuing to declare voice interconnection services which enable an end-user to call any other end-user regardless of their network or service provider. The ACCC correctly noted that, absent regulation, the terminating network operator can have the incentive and ability to exercise market power to either refuse access or to provide call termination on unreasonable terms.

This is a particularly live issue following recent actions by some network operators to restrict access to their own subscribers in relation to voice termination. This action fundamentally goes against the aims of the MTAS to ensure the long-term interests of end-users through principles such as any-to-any connectivity and fair market competition.

To elaborate, since early 2023, some network operators have unilaterally started to refuse to terminate certain legitimate calls that display a different number from the number that the person is calling from on their networks, citing scam prevention. This practice of having a call display a different number is widely practised around the world and is referred to as "CLI (caller line identification) overstepping". It is notable that this action has been taken in relation to voice traffic when data shows more Australians are being targeted by scam SMS^{1, 2}.

CLI overstepping has a variety of legitimate uses – for example, in Australia, it helps businesses and nonprofits communicate with their customers using legitimate phone numbers associated with their operations, while ensuring the privacy and security of their staff by keeping their mobile and other personal numbers confidential. It is also explicitly recognised by the Australian Communications and Media Authority as being "*legal in Australia unless it is being done for unlawful or malicious purposes*"³.

Continued declaration of voice interconnection services means that the framework that values market competition and any-to-any connectivity can be maintained, and the monopoly power of network providers kept in check.

MTAS service description

The ACCC sought views on whether the MTAS service description should be amended to refer to termination on a mobile number rather than a digital mobile network. Twilio supports the ACCC's preliminary view, and proposed amendment as indicated in Appendix C of the Draft Report which

¹ See <https://www.acma.gov.au/articles/2024-02/five-telcos-breached-allowing-sms-scams>

² See <https://www.scamwatch.gov.au/research-and-resources/scam-statistics>

³ See <https://www.acma.gov.au/calling-line-identification-cli-overstepping-and-spoofing>

identifies the called party as a party that is assigned a digital mobile number, rather than a party that is directly connected to any specific technology or network.

Twilio agrees with submissions cited in the Draft Report that the amendment would allow the service to be technology agnostic and account for increasing business calling originated and received via a software. The amendment would thus reflect the market as it now operates and would ensure that the service description remains fit for purpose and enables the supply of innovative services. The amendment also recognises that the mobile number identifies the subscriber and reflects the exclusive access that the access provider has over this subscriber.

Declaration of A2P SMS termination

Twilio supports a more open and dynamic market for Australian consumers of all types. This will help ensure access to competitive telecommunications services that will continue to enable connectivity, innovation in the market, and economic growth in Australia.

Twilio also supports the ACCC's view that:

- for both mobile voice and SMS, each network operator has a monopoly in controlling access to its subscribers, and that “[i]n the absence of regulation, a network operator could restrict access to its own subscribers by imposing unreasonable terms or very high prices to terminate SMS on its network”⁴; and
- “varying the MTAS service description to include A2P SMS termination services is likely to promote competition in the wholesale markets for A2P SMS services and the retail market for A2P SMS services”⁵.

This would facilitate competition in the ways in which wholesale on-net mobile terminating access can be procured by carriers and carriage service providers in Australia (e.g., the three ways mentioned above in which Twilio sources mobile termination access). In turn, and as the ACCC has also recognised, increased competition at the wholesale level following declaration “would be more conducive to creating a more competitive retail A2P SMS market with increased choice of providers and lower prices”⁶.

Price flexibility to manage scams

We also note the points made in previous submissions and referenced in the Draft Report in relation to tackling scam. Twilio disputes the notion that leaving A2P SMS termination unregulated will support efforts in combating scam SMS originating from A2P service providers. We particularly disagree with the assertion that a declared SMS termination rate would make it cost effective for fraudsters to send a high volume of SMS when balanced against the potential benefit of a successful scam.

We have not seen any evidence that an increase in SMS prices, in the years since SMS was removed from the MTAS in 2019, has been effective at curbing scam. In fact, there is evidence to the contrary – as the ACCC notes in its 2022 Targeting Scams Report, there was an 18.8% increase in 2022 in the number of people reporting to have received scam SMSes⁷.

Twilio is in favour of more nuanced approaches to managing scam on the network, noting that the use of blunt tools is not to the benefit of the market or end users. For example, Twilio supports the

⁴ Draft Report, section 5.1.2, at page 57.

⁵ Draft Report, section 5.3.1, at page 71.

⁶ Ibid.

⁷ ACCC, *Targeting scams: Report of the ACCC on scams activity 2022*, available at: <https://www.accc.gov.au/about-us/publications/serial-publications/targeting-scams-reports-on-scams-activity/targeting-scams-report-of-the-accc-on-scams-activity-2022>, at page 6.

government's SMS SenderID registry which will help stop scammers from spoofing trusted brand names. Singapore has used a similar process and has seen positive results so far. The Industry Code *C661:2022 Reducing Scam Calls and Scam SMS* is also having a positive impact in Australia, setting out industry-agreed ways to identify, track and disrupt scam SMS.

CONCLUSION

Twilio believes that competition in the telecommunications market can be a key driver of business innovation and economic growth in Australia for years to come. We support the ACCC's targeted regulatory responses to protect consumers and maintain competition while ensuring the opportunity for innovative technology in the sector to evolve.

Twilio hopes the comments and recommendations above will aid ACCC in finalising its position and thanks the ACCC for this valuable opportunity to contribute to the ongoing development of Australia's telecommunications market. We look forward to continuing to engage in constructive dialogue with all relevant stakeholders on this important subject.