



Vodafone submission to the ACCC on A2P services (In response to ACCC email of 23 May 2014)

As you are aware, as a matter of principle VHA does not support declaration of SMS termination services. The Declaration of SMS termination would result in a significant increase in regulatory red tape and no consumer benefit. We urge the ACCC to consider alternate light touch approaches to resolving any perceived market concerns.

Declaration will result in ACCC resources being diverted from more important issues

There are critical regulatory challenges in Australian telecommunications. A range of indicators suggest that Australian telecommunications faces serious structural problems and there are a number of complex policy challenges that the ACCC needs to tackle. For example:

- Telstra's share of Total telecoms revenue in Australia is 66%, its share of industry EBITDA is 75% and its share of industry free cash flow exceeds 80%. By anyone's estimations, this cannot represent a functioning competitive market.
- Australia has the highest PSTN prices in the OECD. This is the result of serious structural problems in the fixed market and is a significant policy failure.
- There is virtually no effective fixed and mobile competition in regional Australia. It is clear that a significant contributor to this is way Telstra sells backhaul services.
- The NBN project is going through a significant strategy review. The ACCC needs to be heavily involved in ensuring the commercial and product framework optimises competitive outcomes.

Given the scale of the task to overcome the roadblocks to effective competition, the ACCC should not divert its limited resources on extending their regulatory reach to the area of SMS termination when the benefits of doing so are marginal. We note that the fixed services review and the Final Access Determination for DTCS have been significantly (and unreasonably) been delayed. These are crucial issues that need to be finalised as quickly as possible. The Declaration of SMS Termination assessment process is clearly diverting ACCC resources away from critical issues and in a broader context the delay is not in the long term interest of end users.

Draft service description of A2P

The recent debate about the scope of the SMS Termination service description reinforces the difficulties of declaring this service. While we disagree with the need to declare SMS termination if the ACCC does proceed then we agree with the ACCC's preliminary findings that a declared SMS termination service should not exclude termination of A2P SMS services.

The way forward on SMS termination

Vodafone urges the ACCC to consider alternative measures to resolve any concerns it has identified. We recognise that the industry's current SMS termination access pricing is high compared to international benchmarks (although because traffic flows are balanced this has not resulted in high retail SMS prices). As discussed in our previous submissions, VHA is prepared to pursue commercial agreements that would reduce the SMS termination price that would avoid the need for declaration.

The ACCC can and should use a less intrusive approach to addressing perceived concerns about SMS termination rates. Instead of pursuing heavy-handed regulatory intervention, Vodafone recommends the ACCC provide the



mobile industry with a time limit (e.g. 30 September 2014) to commercially negotiate alternative price terms for SMS termination and specify that parties be required to implement the new rates by a set date (e.g. 31 March 2015). If the new commercial agreements provide a pricing outcome that is satisfactory to the ACCC, then it should forebear from the declaration of SMS termination.

Commercial agreements are likely to be reached quickly if the ACCC were also to informally indicate a SMS termination rate threshold below which, if met, would mean regulatory intervention was not warranted.