



Public inquiry into the declaration of the domestic mobile terminating access service

Final report

June 2024

Acknowledgement of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

Land of the Ngunnawal people

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1. Executive Summary

The ACCC has finalised its public inquiry into the declaration of the mobile terminating access service (MTAS). This final report sets out the ACCC's findings.

There is no general right to access telecommunications services in Australia. The ACCC can decide to regulate a service by declaring it under Part XIC of the *Competition and Consumer Act 2010* (Cth). Once a service is declared, an access provider that supplies the declared service (whether to itself or to other persons) must, upon request, supply the declared service, to access seekers in accordance with the standard access obligations set out in Division 3 of Part XIC of the *Competition and Consumer Act 2010* (Cth).

The ACCC has decided to extend the MTAS declaration for 5 years and maintain the current service description. The final service description for the MTAS is set out in **Appendix A**.

As part of the inquiry, the ACCC examined whether the following changes to the service description would promote the long-term interests of end-users:

- the inclusion of application-to-person (A2P) SMS termination services;
- referring to 'termination to a mobile number' instead of 'a B-Party directly connected to a digital mobile network'.

The ACCC does not consider that, at this point, these proposed changes to the service description will promote the long-term interests of end-users.

Mobile voice termination service

The MTAS as currently defined in the service description is a mobile voice termination service. This is a wholesale interconnection service provided by a mobile network operator to other network operators to connect or 'terminate' a voice call on its mobile network. It enables voice calls to be made from an end-user on a fixed or mobile network to an end-user directly connected to another mobile network. It is essential to the provision of fixed and mobile voice services in downstream markets.

When the calling party makes a call to the receiving party's mobile number, the calling party's network provider completes the call by purchasing the mobile voice termination service from the receiving party's network provider. The calling party's network provider will recover those costs, and its costs for originating the call, from its customers in the form of retail charges.

Australia has historically had a calling party pays system which means that when calls are made from one network to another, the originating network pays the terminating network to connect the calls. In this system, the terminating network does not charge additional fees to its subscribers for receiving calls, and the cost of the call is generally paid by the subscriber that makes the call. The terminating network therefore typically has market power in the provision of termination services to the originating network as it controls access to its subscribers. Absent regulation, the terminating network may have the incentive and ability to exercise market power to either refuse access or to provide call termination on unreasonable terms.

The ACCC has reached the final view that continued declaration of this service will promote the long-term interests of end-users. This is because the mobile network operators continue to have exclusive access to their mobile subscribers. In the absence of declaration, the

mobile network operators may have the incentive and ability to refuse to provide mobile voice termination services or set unreasonable terms for access to these services, which can be particularly detrimental to smaller fixed line operators or new entrants.

Consumers are increasingly using over-the-top voice services (i.e. voice calling using apps) to communicate. The ACCC has considered whether these services are now close substitutes to fixed and mobile voice services and provide competitive constraint on the mobile network operators in the provision of mobile voice termination services. The ACCC considers that while the quality of over-the-top voice services has likely improved over the years, the take-up of these services appears slower than the take-up of over-the-top messaging services. The ACCC is not satisfied that over-the-top voice services are currently close substitutes for traditional voice services. It is likely many consumers continue to rely on traditional voice services, such as older consumers, those that live and work in regional and remote areas and those with complex medical needs. For these reasons, the ACCC considers that the continued declaration of the mobile voice termination service remains important in constraining the ability of the mobile network operators in exercising market power.

In saying that, the ACCC recognises that the inclusion of unlimited voice calls has become increasingly common in retail voice service offerings. This type of inclusion is already a prevalent feature in the mobile services market. The fixed voice services market is also moving towards more unlimited call offerings. In these circumstances, the ACCC acknowledges that the extent to which the continued declaration of mobile voice termination service is likely to promote competition and efficiency could become increasingly limited.

Application-to-person (A2P) SMS termination service

The ACCC has decided not to include A2P SMS termination services in the MTAS declaration, as we are not satisfied at this point that doing so will promote the long-term interests of end-users. This is a departure from the preliminary position the ACCC reached in our draft report.

A2P SMS are SMS sent from an online application to mobile subscribers. They are typically used by businesses and governments (enterprises) to communicate with their customers and clients for purposes such as multi-factor authentication, appointment reminders, delivery updates and marketing. A2P SMS differs from person-to-person SMS (P2P SMS), which are sent between mobile subscribers primarily for personal purposes. While the use of P2P SMS has dramatically decreased due to the popularity of over-the-top messaging apps, the use of A2P SMS by enterprises has been increasing and this trend is expected to continue.

A2P SMS termination services are currently provided by the mobile network operators on a commercial basis to each other. This service enables A2P SMS to be sent between the mobile networks, and is used as an input for providing wholesale A2P SMS services to downstream suppliers, i.e. A2P SMS aggregators or retailers.

The ACCC previously included A2P SMS termination services in the MTAS declaration but decided to remove them in 2019. This inquiry examined whether the ACCC should, once again, include A2P SMS termination services in the MTAS. Commercial prices for A2P SMS termination services have significantly increased since 2019, leading to concerns that this may result in higher wholesale prices, and eventually, higher retail prices for enterprise users.

A key question the ACCC considered was the extent to which alternative communications channels, such as emails, dedicated mobile apps, over-the-top messaging apps and others, can exert sufficient competitive constraint on the national mobile network operators such that they are prevented from exercising market power in the provision of A2P SMS services. In the draft report, the ACCC's preliminary view was that there were likely no close substitutes to A2P SMS in the retail market and therefore including A2P SMS termination in the MTAS declaration was likely to promote competition and efficiency in downstream markets.

Since the release of the draft report, the ACCC received extensive submissions from stakeholders to inform our view on this issue. The ACCC also sought further information from enterprise users of A2P SMS and A2P SMS suppliers. The ACCC found that enterprises are using a variety of communications channels for various purposes but appear to rely heavily on A2P SMS for some use cases, notably multi-factor authentication. This is due to the ubiquity of SMS, high open rate of SMS, and the ease of use SMS provides to their customers. While alternative communications channels may be close substitutes for A2P SMS in some use cases (such as marketing), it is unclear whether their existence provides sufficient competitive constraint on the national mobile network operators in the provision of A2P SMS services overall.

Despite rising A2P SMS termination rates between the mobile network operators, wholesale and retail prices for A2P SMS services have been falling. Based on the evidence so far, the ACCC has not come to a concluded view on what is driving this disparity in pricing trends. On the one hand, falling wholesale and retail prices may suggest the presence of competitive constraint. On the other hand, the ACCC is concerned that it could mean that the increases in A2P SMS termination rates have yet to ripple through the downstream markets and impact end-users. There is therefore uncertainty regarding pricing movements in the markets in the absence of declaration and this means that the ACCC is unable to properly assess the impact of declaration at this point in time, i.e. whether it is likely to promote competition and the economically efficient use of, and investment in, infrastructure.

On balance, the ACCC is not currently satisfied that including A2P SMS termination services in the MTAS declaration will promote the long-term interests of end-users. However, the ACCC remains concerned about the potential for the national mobile network operators to exercise market power, whether unilaterally or in concert with one another, and increase prices for A2P SMS services to the detriment of end-users. As such, the ACCC will closely monitor price movements in the A2P SMS markets, and if necessary, consider commencing an inquiry into declaring A2P SMS services in the future.

Scam issues

In the context of considering whether to include A2P SMS termination services in the MTAS declaration, the national mobile network operators have raised concerns that including this service would hinder the ability of the mobile network operators in combatting scams. The national mobile network operators argued that regulating A2P SMS termination services would lead to lower prices and result in increased scam traffic. They also argued that if the services are declared, they would be required to carry A2P SMS traffic under the standard access obligations, and this would mean the mobile network operators would not be able to block scam SMS.

The ACCC remains concerned that the use of A2P SMS to conduct scams causes significant harm to the welfare of consumers. The ACCC also considers that the use of A2P SMS for scams or other fraudulent purposes is an inefficient use of infrastructure. Therefore, it is important to consider the impact of declaration on scam traffic as well as the ability of the mobile network operators to combat scams.

However, for the purposes of this inquiry, the ACCC does not consider it is necessary to provide a conclusive view on this issue. This is because, having had regard to all information available, the ACCC does not currently consider that declaration of A2P SMS termination services is likely to promote competition and encourage the economically efficient use of infrastructure in downstream markets. As such, the likely impact declaration would have on scam SMS and efficient use of infrastructure would not affect the ACCC's overall position on whether including this service in the MTAS declaration will promote the long-term interests of end-users at this point.

The ACCC understands that there are scam-related reforms that will be implemented in the near term such as the SMS Sender ID Registry and the proposed mandatory scam code framework. Alongside the ACCC's proposed market monitoring in A2P SMS, the ACCC will closely monitor the development and implementation of these reforms which will likely be relevant in any future assessment by the ACCC of the need for regulatory intervention in relation to A2P SMS services.

Given the mobile voice termination service will continue to be declared, potential tension remains between the mobile network operators' obligation to carry voice calls from other networks and their obligations under other regulations to block scam voice traffic. The ACCC will examine the intersection between these obligations as part of its final access determination inquiry. In particular, the ACCC will examine measures in the final access determination to facilitate and support industry effort to combat scams.

Reference to 'termination to a mobile number'

The ACCC has decided not to amend the MTAS service description to refer to 'termination to a mobile number' instead of a 'B-Party directly connected to a digital mobile network'. This is a change from the preliminary view we reached in our draft report.

This amendment was proposed on the basis that technological progress means that voice calls can be carried to mobile subscribers using means other than via the radio access network, such as voice over WiFi (where the access technology used is typically fixed) and satellite technology. Additionally, some stakeholders believed the MTAS service description should reflect that non-mobile network operators are increasingly looking to use mobile numbers to provide innovative services due to demand from businesses.

The ACCC considered two issues relevant to this proposal:

- Whether the existing service description may give rise to uncertainty regarding the circumstances under which the mobile network operators are required to provide the MTAS;
- Whether the scope of the MTAS should be expanded to include termination of calls to mobile numbers by non-mobile network operators.

In the draft report, the ACCC's preliminary view was that changing the service description to refer to termination to a mobile number would promote the long-term interests of end-users by making clear the circumstances in which the mobile network operators have exclusive access to their subscribers. The ACCC considered that the proposed amendment would provide regulatory certainty over the circumstances in which the mobile network operator would be required to provide mobile voice termination services.

Since the release of the draft report, additional evidence received by the ACCC indicates that the mobile network operators are providing the MTAS in circumstances where the end-user is directly connected to the mobile core network, but the call is carried over technologies

other than the radio access network. This means that the current service description is not giving rise to regulatory uncertainty or a gap in practice, concerning the provision of MTAS by the mobile network operators.

The ACCC understands that the use of mobile numbers by non-mobile network operators is a contentious issue in industry. Until there is clarity and industry consensus on whether non-mobile network operators can legitimately use mobile numbers, the ACCC does not consider that the proposed amendment to the MTAS service description would likely have any practical impact on the interconnection arrangements between various parties. This is because the declaration imposes an obligation to provide the termination service if requested, not an obligation to acquire the termination service.

The Australian Communications and Media Authority (ACMA) has commenced the sunset review of the Telecommunications Numbering Plan 2015 and will consider the issue of the use of mobile numbers by non-mobile network operators as part of this review. The ACCC will consider implications arising from the outcome of the ACMA's review of the Telecommunications Numbering Plan 2015.

For these reasons, the ACCC has arrived at the view that the MTAS service description should remain unchanged at this point.

Next steps

The ACCC will soon commence a combined inquiry into whether to make access determinations for the voice interconnection services, i.e. the MTAS, fixed terminating access service (FTAS) and the fixed originating access service (FOAS). An access determination can set out both price and non-price terms and condition of access to the service.

2. Introduction

2.1. How this report is structured

This report is structured in the following way:

- Chapter 2 sets out the consultation process and the ACCC's approach to declaring services,
- Chapter 3 sets out the ACCC's views on whether to extend the declaration of mobile voice termination service currently defined in the MTAS
- Chapter 4 sets out the ACCC's views on the scope of the MTAS declaration and other issues;
- Chapter 5 sets out the ACCC's views on whether to vary the MTAS to include SMS termination services;
- Appendix A sets out the final MTAS service description.

2.2. Consultation process

On 31 May 2023, the ACCC released a discussion paper for the combined public inquiry into the declarations of the domestic transmission capacity service (DTCS), fixed line services and the MTAS. The paper raised key issues relevant to this declaration inquiry and invited submissions from interested stakeholders.

The ACCC received 13 submissions in response to the discussion paper and 8 supplementary submissions.¹ In addition, the ACCC engaged extensively with stakeholders through meetings and information requests.

On 20 December 2023, the ACCC released its draft report for the combined public inquiry into the declarations of the DTCS, fixed line services and the MTAS. The draft report outlined the ACCC's preliminary views in relation to issues raised in the declaration inquiry and invited submissions from interested stakeholders on those draft positions.

The ACCC received 10 submissions in response to the draft report and 2 supplementary submissions.²

On 25 March 2024, the ACCC released its final report in relation to the declarations of the DTCS and fixed line services. Given the complexity of the issues raised in relation to the MTAS the ACCC decided to issue a separate final report for this service. The ACCC accepted further submissions in relation to the MTAS declaration until 12 April 2024. 6 additional submissions were received.

Following the completion of the declaration inquiry, the ACCC will commence inquiries into making access determination for services that remain declared following the declaration inquiry. The ACCC has deferred the commencement of access determination inquiries until the declaration inquiry is finalised.³

¹ All submissions are available on the ACCC website [here](#).

² All submissions are available on the ACCC website [here](#).

³ Section 152BCI(6) of the *Competition and Consumer Act 2010* (Cth) (CCA).

2.3. The ACCC's approach to declaring services

The ACCC's *A guideline to the declaration provisions for telecommunications services under Part XIC of the Competition and Consumer Act 2010* provides further guidance about the declaration process and the ACCC's general approach to declaration decisions. It can be found [here](#).

A summary is provided below.

Legislative framework

There is no general right to access telecommunications services in Australia. The ACCC can decide to regulate a service under Part XIC of the *Competition and Consumer Act 2010* (Cth) by declaring it.

Under Part XIC of the *Competition and Consumer Act 2010* (Cth), the ACCC may, by written instrument, declare that a specified eligible service is a 'declared service'.⁴ An 'eligible service' is:⁵

- a listed carriage service (within the meaning of the *Telecommunications Act 1997* (Cth) or
- a service that facilitates the supply of a listed carriage service

where the service is supplied, or is capable of being supplied, by a carrier or a carriage service provider (whether to itself or to other persons).

A carriage service is a service for carrying communications by means of guided and/or unguided electromagnetic energy.⁶

Once a service is declared, an access provider that supplies the declared service (whether to itself or to other persons) must, upon request, supply the declared service, to access seekers in accordance with the standard access obligations set out in Division 3 of Part XIC of the *Competition and Consumer Act 2010* (Cth).

The ACCC may declare an eligible service if it:⁷

- has held a public inquiry under Part 25 of the *Telecommunications Act 1997* (Cth) about a proposal to make the declaration
- has prepared a report about the inquiry under section 505 of the *Telecommunications Act 1997* (Cth)
- the report was published during the 180-day period ending when the declaration was made
- is satisfied that the making of the declaration will promote the long-term interests of end-users of carriage services or of services provided by means of carriage services.

⁴ Section 152AL of the CCA.

⁵ Section 152AL(1) of the CCA.

⁶ Section 7 of the *Telecommunications Act 1997* (Cth).

⁷ Section 152AL(3) of the CCA.

Approach to assessing the long-term interests of end-users

In deciding whether a declaration will promote the long-term interests of end-users, the ACCC must have regard to the extent to which declaration is likely to result in the achievement of the following three objectives:⁸

- the objective of promoting competition in markets for listed services (which includes carriage services and services supplied by means of carriage services)
- the objective of achieving any-to-any connectivity in relation to carriage services that involve communication between end-users
- the objective of encouraging the economically efficient use of, and economically efficient investment in
 - the infrastructure by which listed services⁹ are supplied, and
 - any other infrastructure by which such services are, or likely to become, capable of being supplied.¹⁰

In the context of this inquiry, the ACCC will consider whether extending, revoking, varying, allowing an existing declaration to expire, or making a new declaration will promote the long-term interests of end-users.

Promoting competition

In determining the extent to which declaration is likely to achieve the objective of promoting competition in markets for listed services, the ACCC must have regard to the extent to which the declaration will remove obstacles to end-users gaining access to the relevant listed services.¹¹

The ACCC will consider the market/s in which competition may be promoted. In most cases, this is likely to be the downstream market rather than the market in which the service is supplied. Where relevant the ACCC may also consider the market in which the service is supplied.

In assessing whether declaration is likely to achieve the objective of promoting competition in markets for the relevant services the ACCC will:

- identify and define the relevant markets
- assess the current state of competition in those markets
- consider the likely future state of competition in those markets with and without declaration.

Achievement of any-to-any connectivity

The *Competition and Consumer Act 2010* (Cth) provides that the objective of any-to-any connectivity is achieved if, and only if, each end-user who is supplied with a carriage service that involves communication between end-users is able to communicate, by means of that

⁸ Section 152AB(2) of the CCA.

⁹ "Listed services" are carriage services or services supplied by means of carriage services (see section 152AB(2) of the CCA).

¹⁰ Section 152AB(2) of the CCA.

¹¹ Section 152AB(4) of the CCA.

service, with each other end-user who is supplied with the same service or a similar service, whether or not they are connected to the same telecommunications network.¹²

The ACCC considers that the achievement of any-to-any connectivity is particularly relevant when considering services that require interconnection between different networks (e.g. voice interconnection services). The ACCC will generally examine whether any-to-any connectivity will be achieved absent declaration.

Economically efficient use of, and economically efficient investment in, infrastructure

In determining the extent to which a declaration is likely to encourage the economically efficient use of, and economically efficient investment in infrastructure, regard must be had to the following:¹³

- whether it is, or is likely to become, technically feasible for the services to be supplied and charged for, having regard:
 - the technology that is in use, available or likely to become available; and
 - whether the costs that would be involved in supplying, and charging for, the services are reasonable or likely to become reasonable; and
 - the effects, or likely effects, that supplying, and charging for, the services would have on the operation or performance of telecommunications networks
- the legitimate commercial interests of the supplier or suppliers of the services, including the ability of the supplier or suppliers to exploit economies of scale and scope;
- the incentives for investment in:
 - the infrastructure by which the services are supplied; and
 - any other infrastructure by which the services are, or are likely to become, capable of being supplied.

The ACCC will examine efficiency from an economic perspective, based on the concepts of productive, allocative and dynamic efficiency.

The ACCC will consider the extent to which declaration is likely to encourage such efficiencies. Whether efficiency in relation to the use and investment in infrastructure will be improved is relevant to, but not determinative of, whether a declaration will promote the long-term interests of end-users. The ACCC will also consider whether a declaration will create an environment in which participants have increased incentives to undertake efficient use of, and investment in, infrastructure.

¹² Section 152AC(8) of the CCA.

¹³ Section 152AB(6) of the CCA.

3. Should mobile voice termination service continue to be declared?

3.1. Introduction

The MTAS as currently defined in the service description is a mobile voice termination service. This is a wholesale interconnection service provided by a mobile network operator to other network operators to connect or ‘terminate’ a voice call on its mobile network. It enables voice calls to be made to an end-user on a mobile network.

When the calling party makes a call to the receiving party’s mobile number, the calling party’s network provider completes the call by purchasing the mobile voice termination service from the receiving party’s network provider. The calling party’s network provider will recover those costs, and its costs for originating the call, from its customers in the form of retail charges.

This section provides the ACCC’s final view on whether continued declaration of the mobile voice termination service will promote the long-term interests of end-users.

3.1.1. Why have we historically regulated this service?

Australia has historically had a calling party pays system which means that when calls are made from one network to another, the originating network pays the terminating network to connect the calls. In this system, the terminating network does not charge additional fees to its subscribers for receiving calls, and the cost of the call is generally paid by the subscriber that makes the call. The terminating network therefore typically has market power in the provision of termination services to the originating network as it controls access to its subscribers. Absent regulation, the terminating network may have the incentive and ability to exercise market power to either refuse access or to provide call termination on unreasonable terms.

3.1.2. Previous declaration inquiries

The ACCC deemed the MTAS to be a declared service in 1997, shortly after the introduction of the Part XIC telecommunications access provisions of the *Trade Practices Act 1974*.¹⁴ In 1997, the mobile networks in operation were the analogue advanced mobile phone systems (AMPS) network and the digital global system for mobiles (GSM) network. In 2002, the ACCC varied the declaration and redefined the service description to make it effectively technology-neutral with respect to the mobile technologies used.¹⁵

¹⁴ Prior to this, mobile services were regulated under the *Telecommunications Act 1991* access regime.

¹⁵ ACCC, [Variation to make the GSM Service Declarations Technology-Neutral: An ACCC Report examining a proposed variation to make Domestic GSM Originating and Terminating Access Service technology-neutral with respect to technologies currently in use](#), March 2022.

In 2004 and 2009, the ACCC extended the declaration of the MTAS after reviewing the need for regulation.¹⁶

In 2014, the ACCC decided again to extend the declaration of mobile termination access services. The ACCC also decided to vary the service description to include SMS termination services.¹⁷

In 2019, the ACCC extended the MTAS but varied the service description to remove SMS termination services, as it was no longer satisfied that including this would promote the long-term interests of end-users.¹⁸

3.1.3. Promoting competition in relevant markets

In assessing whether declaration is likely to achieve the objective of promoting competition in markets for the relevant services the ACCC will:

- identify and define the relevant markets
- assess the current state of competition in those markets, and
- consider the likely future state of competition in those market with and without declaration.

Relevant markets and current state of competition in those markets

The ACCC's final view is that the following markets are relevant for the provision of mobile voice termination service:

- wholesale markets for mobile voice termination services,
- retail market for fixed voice services, and
- retail mobile services market.

Wholesale markets for mobile voice termination services

Consistent with the preliminary view expressed in the draft report,¹⁹ the ACCC considers that the wholesale markets for mobile voice termination services are relevant markets for the purpose of assessing the impact of declaration on competition.

The ACCC considers that:

- the demand for wholesale voice termination services is entirely a function of demand for the connection of calls to mobile subscribers in the retail market.

¹⁶ ACCC, [Mobile Services Review: Mobile Terminating Access Service – Final Decision on whether or not the Commission should extend, vary or revoke its existing declaration of the mobile terminating access service](#), June 2004; ACCC, [Mobile Terminating Access Service: An ACCC Final Report on reviewing the declaration of the mobile terminating access service](#), May 2009.

¹⁷ ACCC, [Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision](#), June 2014.

¹⁸ ACCC, [Domestic Mobile Terminating Access Service Declaration Inquiry: Final report](#), June 2019.

¹⁹ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 40.

- there are no substitutes for wholesale voice termination services on different mobile networks. Stakeholders that submitted on this point generally agreed with the ACCC's view.²⁰
- an end-user making a voice call cannot choose the network a given number is connected to. As such, mobile network operators continue to have exclusive access to end-users on their own networks and control the termination of voice calls to the mobile number being used by that end-user.

As such, the ACCC considers that competition in the supply of wholesale voice termination services on each mobile network operator's network is not feasible.

Retail market for fixed voice services

Consistent with the preliminary views expressed in the draft report, the ACCC considers that the retail market for fixed voice services is a relevant market, as mobile voice termination remains an essential input to fixed-to-mobile voice calls.²¹

As discussed in the final report regarding the declarations of the domestic transmission capacity service and fixed line services released in March 2024,²² the ACCC considers that despite many retail service providers in this market, it is still relatively concentrated with Telstra consistently having the highest market share.

The ACCC notes ACMA research in its *Communications and media in Australia series for 2021-22* shows changes in the way in which consumers are using voice services, including the preferred use of mobile services and significant growth in the use of over-the-top services.²³

On the other hand, the ACCC considers that despite the long-term trend of decreased usage of landline services, there are a small number of Australians who are solely reliant on a landline, and fixed line voice services remain critical for some vulnerable consumers and businesses. These include those who live in regional and remote areas, those with no or poor mobile coverage, the elderly and consumers with complex medical needs. For these reasons, the ACCC considers that mobile services are only a partial substitute to fixed voice services. The ACCC also considers that over-the-top services are likely to be viewed as a viable alternative for fixed voice services only in limited circumstances and as such are not close substitutes for fixed voice services overall.

Retail market for mobile services

Consistent with the preliminary views expressed in the draft report, the ACCC considers that the retail market for mobile services is a relevant market, as mobile voice termination remains an essential input to mobile-to-mobile voice calls.

²⁰ See Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4; Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3; Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 2.

²¹ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 40.

²² ACCC, [Public inquiry into the declaration of the domestic transmission capacity service and fixed line service: Final report](#), March 2024.

²³ See ACMA, [Communications and media in Australia: Trends and developments in telecommunications 2021-22; Communications and media in Australia: How we communicate – Executive summary and key findings](#), p. 3.

Over-the-top services are not close substitutes to mobile voice services

As noted in the draft report, the ACCC considers that a key question to consider is whether over-the-top services are close substitutes to mobile-to-mobile voice services in this market.²⁴ The ACCC expressed the preliminary view in the draft report that they are not close substitutes to mobile-to-mobile voice services based on the following considerations:

- Improvements in mobile networks in the provision of data services over the years has likely led to some improvement in the quality of over-the-top voice services accessed using mobile data services.
- The uptake of over-the-top voice services remains lower than the uptake of over-the-top messaging services. According to research by the ACMA, in 2022, 63% of people used an app for video calls (up from 55% in 2021) and 52% of people used an app for voice calls (up from 45% in 2021).²⁵ This contrasts with the uptake of over-the-top messaging services which was 75% in 2022, up from 72% in 2021.²⁶

Submissions on this issue generally agreed with the ACCC's preliminary view. Pivotal submitted that demand for mobile voice calls has remained resilient. It considered that over-the-top services are not a substitute because these services are not ubiquitous and are less accessible to some users such as those in regional areas, the elderly and the socially disadvantaged.²⁷ Commpete, Symbio and Voxbone also agreed with the ACCC's preliminary view that over-the-top services are not a close substitute for mobile-to-mobile calls or mobile voice services.²⁸

The ACCC remains of the view that at this point, over-the-top voice services are not close substitutes to mobile voice services in this market.

Consistent with the preliminary views expressed in the draft report, the ACCC considers that the retail mobile services market is a national market, although competitive dynamics in metropolitan areas and regional areas differ due to varying levels of infrastructure competition across Australia.

The ACCC considers that the mobile services market is highly concentrated and continues to be dominated by the three national mobile network operators: Telstra, Optus and TPG Telecom. This is reflected in Figure 3.1 below.

²⁴ Over-the-top services (either voice or SMS) refer to voice or messaging service accessed via an application (installed on mobile phones, tablets or computers) where the traffic is carried over the internet.

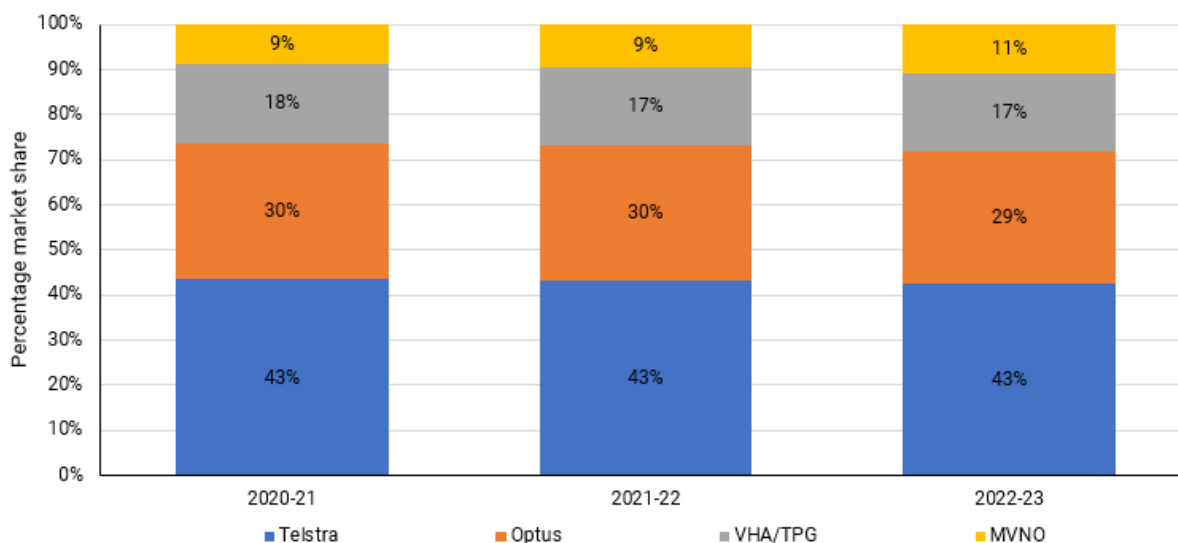
²⁵ ACMA, [Communications and media in Australia: how we communicate](#), December 2022, pp 1, 3.

²⁶ ACMA, [Communications and media in Australia: Trends and developments in telecommunications 2021-22](#), July 2023, accessed 14 November 2023, p 8.

²⁷ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3-4.

²⁸ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 2; Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3; Voxbone, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 1.

Figure 3.1 Retail mobile services market is highly concentrated



Source: ACCC Communications Market Report 2022–23

Since the last declaration inquiry, consumers have been paying significantly more for a range of plans supplied by the flagship brands of the national mobile network operators.

In this respect, Pivotal submitted that it was quite telling that the national mobile network operators charge significantly higher than their sub-brands and mobile virtual network operators. Pivotal considers that this suggests that, in Australia, mobile virtual network operators do not provide significant competitive constraint on infrastructure-based operators. Pivotal also submitted that the market share of the national mobile network operators has remained stable despite the price increases above inflationary levels.²⁹

On the other hand, unlimited call inclusions are prevalent on almost all mobile plans and are no longer used as point of differentiation to attract consumers. Data inclusions appear to be a key factor on which different price points of mobile plans are based.

Is declaration likely to promote competition in relevant markets?

Preliminary view

In the draft report, the ACCC expressed the preliminary view that extending the declaration of mobile voice termination service is likely to promote competition in the relevant markets because:

- The mobile network operators continued to have monopoly over the termination of calls on their networks, and there is no substitute to the provision of this service at the wholesale level;
- There are currently no close substitutes to fixed-to-mobile and mobile-to-mobile services at the retail level for which mobile voice termination is an essential input. This means there is currently no constraint on the mobile network operators in exercising monopoly power in the provision of mobile voice termination services.

²⁹ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

- In the absence of declaration, mobile network operators may have the ability and incentives to increase mobile voice termination rates and undermine competition retail markets, particularly to the detriment of smaller fixed line or new entrant operators that lack bargaining power.³⁰

The ACCC also noted that given the prevalence of unlimited call inclusions in mobile plans, the extent to which continued declaration and regulated pricing will lead to more competitive prices in the mobile services market may be limited. However, there may be more scope for continued declaration and regulated pricing to improve retail offerings in the retail market for fixed voice services.³¹

Submissions

Optus submitted that it agrees with the ACCC's draft position that the MTAS is an essential input for terminating voice calls on a mobile network and that there are no effective substitutes for terminating a voice call, which would otherwise exert competitive pressure on MTAS providers. Optus disagreed that the mobile network operators have the ability to increase voice termination rates. However, Optus noted that continued declaration of the MTAS with current service description will promote the long-term interests of end users.³² Optus submitted that transition costs of removing the MTAS declaration is likely to be greater than the benefits of removal.³³

Pivotel submitted that absent declaration, the national mobile network operators would have the incentive and ability to increase the price of an essential input, mobile voice termination, to the detriment of smaller operators, new entrants and end-users.³⁴

Symbio and Voxbone submitted that the mobile network operators have monopoly power in the provision of mobile voice termination services.^{35 36}

Final position

The ACCC's final position is that the continued declaration of mobile voice termination is likely to promote competition in the fixed voice services market and the mobile services market. This is because the mobile network operators continue to have exclusive access to the termination of voice calls on their networks, and in the absence of close substitutes at retail level, they may have the ability and incentive to raise mobile voice termination rates in the absence of declaration. However, as noted in the draft report, the ACCC considers that the extent to which declaration is likely to continue to promote competition in the retail mobile services market may become increasingly limited due to the prevalence of included unlimited calls in mobile plans.

³⁰ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 47.

³¹ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 47.

³² Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 5.

³³ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

³⁴ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

³⁵ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

³⁶ Voxbone, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 1.

3.1.4. Achieving any-to-any connectivity

Preliminary view

In the draft report, The ACCC expressed the preliminary view that the declaration of mobile voice termination service is likely to achieve any-to-any connectivity. The ACCC considered that absent declaration, mobile network operators have the incentive and ability to exert monopoly power over access to end-users on their networks by imposing unreasonable terms of access or inefficiently high prices. This may disadvantage smaller fixed network operators and new entrants.³⁷

Submissions

Commpete submitted that the extension of the mobile voice termination declaration is in the interests of end-users and achieves any-to-any-connectivity.³⁸

Twilio noted that continued declaration of voice interconnection services ensures that any-to-any connectivity can be maintained, and the monopoly power of network providers can be kept in check.³⁹

Voxbone submitted that technical advancements should continue to shape the service description to ensure any-to-any connectivity is achieved.⁴⁰

Optus agreed that mobile network operators have monopoly control over mobile voice termination access and that terminating services are essential for a call to be placed on a mobile operator's network. Optus noted that continued declaration of mobile voice termination services will ensure access on reasonable terms and the achievement of any-to-any connectivity. Optus also noted that mobile termination traffic is approaching similar levels to 2019 which suggests that access to mobile voice termination services continues to play an important role in achieving any-to-any connectivity.⁴¹

Final position

The ACCC's final position is that the continued declaration of mobile voice termination service is likely to achieve any-to-any connectivity. Absent declaration, mobile network operators may have the incentive and ability to exert monopoly power over access to end-users on their networks by imposing unreasonable terms of access including inefficiently high prices. This may have a particularly detrimental effect on smaller fixed network operators and new entrants.

³⁷ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 48.

³⁸ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

³⁹ Twilio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 2.

⁴⁰ Voxbone, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 1.

⁴¹ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 5.

3.1.5. Encouraging efficient use of, and investment in, infrastructure

Preliminary view

In the draft report, the ACCC expressed the preliminary view that by promoting competition in the relevant retail markets, declaration will encourage the economically efficient use of infrastructure by ensuring prices tend towards costs in the long run. The ACCC considered that this would, in turn, provide incentives for end-users to use services provided by the infrastructure in an efficient manner.

On the other hand, the ACCC expressed the preliminary view that the effect of continued declaration on efficient investment in infrastructure may be more limited. The ACCC noted that voice traffic only represented about 1% of overall mobile traffic in 2023.⁴² As operators continue to focus on investments for the purpose of providing greater capacity for data usage and other innovations, the ACCC considered that continued declaration of the mobile voice termination service is unlikely to significantly affect operators' investment incentives.

Submissions

Pivotel submitted that it recognises that some traffic types such as video streaming are data intensive in comparison to voice calling. However, Pivotel questioned whether an assessment based solely on a percentage of data used is appropriate in determining if continued declaration is in long-term interests of end-users. Pivotel noted that this type of assessment ignores the importance of mobile voice calls in Australia and the continued reliance on these types of calls noting also the overall increase in mobile voice traffic. Pivotel submitted that declaration will promote efficient use of, and investment in, infrastructure by preventing incumbent operators from charging monopoly rents for mobile voice termination services on their network.⁴³

Commpete submitted that the extension of the mobile voice termination declaration is in the interests of end-users and encourages efficient use of infrastructure.⁴⁴

Final position

The ACCC recognises the importance and continued reliance on mobile voice calls for end-users. This is particularly relevant in the context of the ACCC's earlier assessment that over-the-top voice services are not a close substitute for mobile-to-mobile. On the other hand, as discussed earlier, mobile voice calls are no longer a point of differentiation in the mobile services market, and as such investments are increasingly driven by the provision of higher speed and capacity for data usage. Under these circumstances, the ACCC remains the view that the impact of declaration on investment incentives, and hence the economically efficient investments in infrastructure, is likely to be limited.

⁴² This is based on information from the Internet Activity RKR (June 2023) and the Division 12 RKR (2022-23) returns. It also involves converting a voice call and SMS to data.

⁴³ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

⁴⁴ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

The ACCC also remains of the view that by promoting competition in the relevant retail markets, declaration will encourage the economically efficient use of infrastructure by ensuring prices tend towards costs in the long run. The ACCC considers that this will, in turn, provide incentives for end-users to use services provided by the infrastructure in an efficient manner.

3.1.6. ACCC's final position is to extend the declaration of the MTAS

For reasons discussed above, the ACCC's final position is to extend the declaration of the MTAS as doing so will promote the long-term interests of end-users by:

- promoting competition in the retail fixed voice services market and retail mobile services market,
- achieving any-to-any connectivity, and
- encouraging the economically efficient use of infrastructure.

4. Scope of proposed declaration and other issues

This chapter discussed issues relating to the scope of the MTAS declaration as extended and other issues that were considered during the inquiry, which include the following:

- Whether the service description should be amended to refer to termination to a mobile number instead of a B-Party directly connected to a digital mobile network;
- Whether the MTAS and FTAS should be combined into a single service;
- Whether international originating calls should be excluded from the MTAS;
- Consideration of other services within the context of this inquiry;
- Treatment of scam blocking obligations.

4.1. Amending the service description to refer to termination to a mobile number

As part of this inquiry, the ACCC examined whether the service description of the MTAS should be amended to refer to *termination to a mobile number* rather than a *B-Party directly connected to a digital mobile network*.

Preliminary view

In the draft report, the ACCC expressed the preliminary view that the MTAS service description should be amended so that it refers to termination to a 'digital mobile number' rather than to a 'B-party directly connected to a digital mobile network'.⁴⁵ In arriving at this preliminary view, the ACCC noted that:

- Technological advances in telecommunications markets mean that the service description may need to be amended from time to time to ensure that it does not create uncertainty as to what the declared service is or to create a regulatory gap which would undermine the objective of promoting the long-term interests of end-users.
- It is possible for the mobile network operators to carry a call from a point of interconnection to its mobile subscribers using access networks other than its radio access network, such as in the case of voice-over-WiFi and, in the near future, direct-to-mobile satellite technologies.
- As the mobile network operators also have exclusive access to their mobile subscribers when connecting calls using these alternative technologies, declaring the mobile voice termination service in these circumstances would promote the long-term interest of end-users, by promoting competition in the retail fixed voice and mobile services markets, achieving any-to-any connectivity and encourage the economically efficient use of infrastructure, in the absence of close substitutes at the

⁴⁵ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, pp 51, 117.

retail level.⁴⁶

Further, the ACCC noted that amending the service description as proposed would have no effect on the operation or enforcement of regulatory provisions relating to numbering. In particular, the proposed changes in the service description would not create a right or allow mobile numbers to be used by carriage service providers in way that are consistent with the *Telecommunications Act 1997* (Cth) or the Telecommunications Numbering Plan 2015.⁴⁷

Submissions

Submissions on the ACCC's proposed changes to the service description are mixed, with the mobile network operators opposing the changes and others supporting them.

Proponents note proposed changes reflect technological progress and use of mobile numbers in practice

Symbio agreed with the ACCC's preliminary view to change the service description noting that it made it more relevant to current usage and application of mobile voice termination. Symbio submitted that modern telecommunications service providers such as itself, Aussie Broadband, Virtutel and Voxbone provide innovative cloud-based services that are in high demand from business customers. In particular, Symbio noted services such as Unified Communications Services⁴⁸ and Communications Platform Services⁴⁹ are well established in Australia, and a key feature of these services is mobility and to provide this mobile numbers are utilised in the cloud.⁵⁰ In this context, Symbio argued that the proposed changes in service description will:

- facilitate more competition in the wholesale market by allowing all network operators an opportunity to offer services, not just mobile network operators;
- ensure the service description is truly technology neutral and aligns with changes in market dynamics;⁵¹
- align with current business and residential requirements for mobile numbers rather than leaving it tied to initial regulation associated with the introduction of mobile services.⁵²

⁴⁶ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 51.

⁴⁷ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, pp 51-52.

⁴⁸ Also known as Unified Communications as a Service (UCaaS), it is a service hosted on a server (now increasingly in the cloud) that supports business communication functions such as video conferencing and messaging. Examples include Microsoft Teams and Zoom.

⁴⁹ Also known as Communications Platform as a Service (CPaaS), it is a cloud-based platform that enables developers to add real-time communications features (such as APIs) to their own applications without needing to build backend infrastructure and interfaces. Examples include services provided by application-to-person (A2P) SMS retail service providers and SMS aggregators.

⁵⁰ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁵¹ Symbio, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, pp 1-2.

⁵² Symbio, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, pp 2-3.

Twilio, Commpete and Aussie Broadband also supported the ACCC's preliminary view that the service description should be amended to refer to termination on a mobile number rather than a digital mobile network.⁵³

Twilio noted that the amendment reflects how the market operates and would ensure the service description remains fit for purpose and enables the supply of innovative services. Varying the service description as proposed recognises that mobile number reflects the exclusive access that an access provider has over its subscribers.⁵⁴

Commpete submitted voice calls are increasingly being originated or received by software applications and are not limited to mobile devices with SIM cards. The change also recognises the developments associated with mobile network operators providing call termination/originating over alternative technology such as Voice over Wi-Fi.⁵⁵

Proponents do not consider there is risk that proposed changes would lead to circumvention of regulations relating to numbering

Voxbone submitted the proposed changes would not create risks by allowing non-mobile network operators to circumvent other telecommunications regulation. Voxbone agreed with the ACCC's assessment that use of mobile numbers by non-mobile network operators is not a recent development and that those using mobile numbers are required to comply with relevant numbering rules. Changes to the service description would not impact compliance with these rules.⁵⁶

Symbio also agreed that changing the service description would not impact on the operation or enforcement of other regulations in relation to mobile numbers including allocation to carriage service providers, and standard arrangements around mobile calling such as portability.⁵⁷

Mobile network operators consider current service description is technology neutral and proposed changes would lead to unintended adverse outcomes

On the other hand, Telstra and Optus submitted the current service description is already technology neutral, and that reference to direct connection to a digital mobile network should be retained.⁵⁸

⁵³ Twilio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 3-4; Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 5; Aussie Broadband, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 1.

⁵⁴ Twilio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁵⁵ Commpete, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 1.

⁵⁶ Voxbone, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 1.

⁵⁷ Symbio, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 2; Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3

⁵⁸ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 18; Optus, [Submission in](#)

Telstra raised concerns that the proposed changes to the service description could have an unintended adverse impact on the long-term interests of end-users. Telstra argued that the link between the called party and the MTAS provider's digital mobile network is integral to the MTAS, and the called party's mobile phone number does not actually reflect exclusive access in the following circumstances:

- The subscriber may have ported the number to a different service provider;
- The number may be in use by a wholesale customer such as an MVNO other non-mobile network operator (who may in-turn have sub-allocated the number to another service provider; or
- The number may be in use via an over-the-top service, such as WhatsApp.⁵⁹

Pivotel submitted that it did not have a firm view on whether the proposed amendment to the service description was necessary. Pivotel noted that it would welcome changes to ensure that access providers cannot avoid access obligations. However, Pivotel raised doubts as to whether all call types would be captured in any case given the definition of 'digital mobile network' is cast broadly without any reference to a radio access network.⁶⁰

National mobile network operators are concerned about the use of mobile numbers by non-mobile network operators

Telstra considers that use of mobile numbers by non-mobile network operators contravenes the Telecommunications Numbering Plan. The Telecommunications Numbering Plan dictates that a 'digital mobile number' may only be used to supply a 'digital mobile service' which is defined as 'a public mobile telecommunications service supplied by a network using 'digital modulation techniques'.⁶¹

Optus similarly argued that a mobile number is not a digital mobile service unless used with a mobile carriage service. Mobile voice calls between networks are dependent on an interconnection agreement between mobile carriers. Optus notes that while calls may be carried through different parts of a network, the termination of the service remains the same – an end-user connected to a mobile network.⁶²

Optus expressed concerns that were the service description to directly refer to mobile numbers, the operation of the MTAS would become solely dependent on a legislative instrument administered by another agency with which there is limited recourse if issues arise. The Telecommunications Numbering Plan acknowledges that mobile numbers can be allocated to carriage service providers. The onus is then on carriage services providers to reach arrangements with a carrier for the use of that number. Optus noted that were access disputes to arise due to the misuse of numbers this would introduce potential uncertainty and ambiguity in terms of the relationship of the mobile number holder and the MTAS. Further, Optus submitted that 'owning' a number from the ACMA should not be condition for

[response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 16.

⁵⁹ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 14-15; See also Telstra, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 15.

⁶⁰ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 4-5.

⁶¹ Telstra, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 16.

⁶² Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 16.

seeking access to the MTAS and rather it should be secondary as it cannot be used without an agreement to use a mobile network (including associated interconnection agreement).⁶³

TPG Telecom also previously submitted that it considers that mobile numbers can only be used on a mobile network, and that allowing mobile numbers to be included in the service description would lead to a risk of non-mobile network operators avoiding important telecommunications regulations. For instance, TPG Telecom noted that holders of mobile numbers have specific obligations such as in relation to emergency calls, which non-mobile network operators would not be able to comply with. As such, it considers the proposed amendment may lead to perverse regulatory outcomes.⁶⁴

Impact of proposed changes on interconnection arrangements

A number of submissions noted potential impact of the proposed changes on interconnection arrangements between parties.

Symbio submitted that past experience has shown that the allocation of mobile numbers by the ACMA does not guarantee conditioning of those numbers by other carriers such that the parties allocated those numbers can use them. However, Symbio considered that the proposed changes in the service description would alleviate this problem.⁶⁵

Telstra submitted that removing the requirement for called party to be directly connected to a digital mobile network could cause fixed service providers who use mobile numbers for non-mobile services to claim the regulated MTAS rates – undermining the ACCC’s preliminary position to not combine the MTAS and fixed terminating access service (FTAS). Telstra considered that this would cause regulatory instability and uncertainty and, if there continues to be a differential between the MTAS and FTAS regulated prices, potentially incentivise fraudulent traffic.⁶⁶

Telstra also submitted there is no gap in the declared MTAS that would lead to harm in the long-term interests of end-users. In particular, Telstra argued there is no evidence to suggest that non-mobile network operators would have the ability or incentive to refuse to terminate voice calls on their network or set unreasonable terms of access.⁶⁷

Final position

In addition to the submissions received on this issue, the ACCC also sought further information from some stakeholders after the draft report to understand the current provision of the MTAS. The information was intended to inform the ACCC regarding the operation of the current service description, in particular, whether it may give rise to regulatory uncertainty.

After considering all submissions and further information provided on this issue, the ACCC’s final position is to not to amend the service description by reference to termination on a

⁶³ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 17.

⁶⁴ TPG Telecom, Response to the ACCC Request for Information dated 15 August 2023, pp 10–11.

⁶⁵ [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p. 2.

⁶⁶ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 15.

⁶⁷ Telstra, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 16.

'mobile number' rather than 'digital mobile network' at this time. That is, the ACCC considers the current service description should be retained.

The ACCC considers the MTAS service description should in principle reflect technological advancements and that there is increasing technological flexibility in how voice calls are carried and terminated. Broadly, the ACCC considers there are two issues relevant to whether the service description should be changed as proposed. First, whether it is necessary to change the service description to capture all circumstances in which the mobile network operators are carrying calls from an interconnected party to their mobile subscribers. Second, whether the service description should capture the termination of calls to mobile numbers associated with services provided by non-mobile network operators.

On the first issue, the ACCC remains of the view that it is important that the MTAS service description captures all circumstances in which the mobile network operators have exclusive access to their subscribers, regardless of the actual underlining access technology being used to carry the calls. This ensures that the MTAS declaration promote the long-term interests of end-users as discussed in Chapter 3 above. We consider the current service description does this. This is because, in practice, the mobile network operators are providing the MTAS where the B-Party is directly connected to a mobile core network but the call is carried to the end-user device using other non-mobile technologies. This suggests that in so far as the mobile network operators' obligations to provide mobile voice termination is concerned, current evidence suggests the current service description is not giving rise to any regulatory uncertainty or gap.

The second issue, which relates to the use of mobile numbers by non-mobile network operators, is more contentious. The ACCC understands from Symbio's submission that while non-mobile network operators can currently be allocated mobile numbers, it is not guaranteed that other operators will condition these numbers to enable the non-mobile network operators to properly use the mobile numbers to provide services.⁶⁸

The ACCC expressed the preliminary view in the draft report that the proposed changes to service description would not affect the operation and enforcement of regulations regulating to numbering. The ACCC continues to hold this view. However, the ACCC also considers that in the absence of clarity or industry consensus on whether non-mobile network operators can legitimately use mobile numbers, the proposed changes would not likely have any impact in practice. In particular, the ACCC does not consider that the proposed changes would likely force other operators to condition mobile numbers allocated to non-mobile network operators. This is because while the standard access obligations require a declared service to be supplied, there is no obligation to acquire the declared service.

The ACMA has commenced a sunseting review of the Telecommunications Numbering Plan 2015 and associated instruments and released an initial discussion paper.⁶⁹ Amongst other things, the ACMA is seeking views on the use of digital mobile numbers, including whether mobile numbers should only be used to originate calls from mobile networks and if updates to the numbering plan are required to support the changes in technology and in the use of mobile numbers.⁷⁰ The ACCC considers that the ACMA's sunseting review provides

⁶⁸ Symbio, [Supplementary submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), April 2024, p 2.

⁶⁹ ACMA, [Sunsetting reviews for Telecommunications Numbering Plan 2015, Telecommunications \(provision of Pre-selection\) Determination 2015, Telecommunications \(Section of the Telecommunications Industry – Portability Service Suppliers\) Determination 2015: Discussion Paper](#), June 2024.

⁷⁰ ACMA, [Sunsetting reviews for Telecommunications Numbering Plan 2015, Telecommunications \(provision of Pre-selection\) Determination 2015, Telecommunications \(Section of the Telecommunications Industry – Portability Service Suppliers\) Determination 2015: Discussion Paper](#), June 2024, pp. 11–12.

the opportunity to consider this issue and the outcome of the review may provide clarity on whether non-mobile network operators can legitimately use mobile numbers in the absence of an agreement with an MNO.

In light of this, the ACCC will consider implications arising from the outcome of the ACMA review of the Telecommunications Numbering Plan 2015 before exploring further whether potential changes to the MTAS service description are warranted.

4.2. Combining MTAS and FTAS into a single service

Preliminary view

In the draft report, the ACCC considered whether the FTAS and the MTAS should be combined into a single service. The ACCC acknowledged concerns raised in submissions in response to this proposal including whether such an approach would be technically feasible and potential difficulties in setting a regulated price for a combined service. The ACCC expressed the preliminary view that the FTAS and the MTAS should not be combined into a single service at this time. However, the ACCC noted the intention to explore the merits and issues of this proposal including by further engaging with industry, prior to the next declaration inquiry.

Submissions

Symbio agreed with the preliminary view of the ACCC that it is inappropriate at this time to combine the mobile and fixed terminating access services into a single service.⁷¹

Pivotel also agreed with the ACCC's draft position noting that it does not consider it technically feasible to combine the services at this time. Pivotel also noted that arriving at a cost-based price for a combined mobile and fixed terminating access service would be extremely challenging.⁷² Other submissions to the draft report did not specifically comment on this issue.

Final position

As discussed in the final report for the declarations of the domestic transmission and capacity service and fixed line services, the ACCC's final position remains that the MTAS and FTAS should not be combined into a single service at this time. However, the ACCC intends to further explore the merits and issues associated with this approach, including by further engaging with industry, prior to the next declaration review.⁷³

⁷¹ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁷² Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁷³ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service and fixed line services: Final report](#), March 2024, pp. 50–51.

4.3. International originating calls

Preliminary view

In the draft report, the ACCC considered TPG Telecom's proposal to exclude international originating calls from the service description of the MTAS. The ACCC noted that this issue was considered during the previous MTAS declaration inquiry in 2019 when the ACCC found that excluding internationally originated voice traffic in the service description would result in differential regulation, potentially higher wholesale charges, and a more complex regulatory regime with higher implementation, compliance and monitoring cost for industry. The ACCC noted that circumstances had not changed since 2019 and expressed the preliminary view that international originating calls should not be excluded from the service description of the MTAS.⁷⁴

Submissions

Commpete agreed with the ACCC's preliminary view that internationally originated voice calls should remain within the service description. Any exclusion of these types of calls would result in differential pricing and regulation for access seekers looking to access the same infrastructure used for terminating domestically originating voice calls. Commpete submitted that there is no justification for the different treatment of calls for domestic or international originating voice calls and such an arrangement would lead to higher wholesale costs and a complex regulatory regime.⁷⁵

Symbio also agreed that the service description should not be amended to exclude incoming international calls. Symbio submitted that regardless of how the call originates, the mobile network operates still have monopoly power to set pricing absent regulation.⁷⁶

Aussie Broadband also supported the ACCC's preliminary view to not exclude internationally originating calls. Aussie Broadband argued TPG Telecom's proposal was an attempt to prevent non-mobile network operators from participating in this market.⁷⁷

Final position

The ACCC's final position remains that international originating calls should not be excluded from the MTAS service description. The ACCC has not been presented with additional information or evidence since the draft report that would suggest a change in position will promote the long-term interests of end-users. For the same reasons expressed in the draft report and noted above, the ACCC considers that the service description should not be amended to exclude international originating voice traffic.

⁷⁴ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 52.

⁷⁵ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

⁷⁶ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁷⁷ Aussie Broadband, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 1.

4.4. Length of declaration

Preliminary view

In the draft report, the ACCC expressed the preliminary view to extend the declaration of MTAS for 5 years. The ACCC considered that this will provide sufficient time to consider whether further developments and innovations in the sector warrant changes to declaration.

Submissions

Pivotel, Optus, Commpete submitted in support of a 5-year extension to the declaration of the mobile voice terminating access service.⁷⁸

Symbio submitted that it would be comfortable with either 3 or 5 year extension.⁷⁹

Final position

Consistent with the preliminary view expressed in the draft report, the ACCC considers the declaration of the MTAS should be extended for 5 years as this will provide sufficient time for innovations and other technological developments to take place (such as improvements in and take up of over-the-top services) before the ACCC is due to review the MTAS declaration again. The ACCC's final position is that the extended MTAS declaration will expire on 30 June 2029.

4.5. Declaring other services

Preliminary view

In the draft report, the ACCC considered proposals from Commpete and Virtutel suggesting that the ACCC declare additional mobile services, namely a wholesale service for access to mobile networks and a mobile originating access service. The ACCC expressed the preliminary view that consideration of these proposals was outside the scope of the inquiry.⁸⁰

Submissions

In response to the draft report, Symbio submitted that it agreed with the proposal made by Virtutel and that a mobile voice originating access service should be declared. Symbio noted

⁷⁸ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3; Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 6; Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 5.

⁷⁹ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁸⁰ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 53.

the ACCC preliminary view that such a service is not part of this inquiry but commented that they would like to see this service considered in the near future.⁸¹

Final position

The ACCC's final position remains that consideration of services that do not fall within the scope of the MTAS is outside the scope of this inquiry.

The ACCC has the power to declare a specified eligible service, which can be a listed carriage service or a service that facilitates the supply of a listed carriage service. Such a service must be supplied or is capable of being supplied by a carrier or a carriage service provider whether to itself or to other persons.⁸²

Amongst other things, the ACCC must hold a public inquiry regarding the declaration of an eligible service before it can make the declaration.⁸³ The ACCC may hold the inquiry on its own initiative or if requested in writing to do so by a person,⁸⁴ though in the latter case the ACCC does not have a duty to consider whether to hold such an inquiry.

4.6. Treatment of scam blocking obligations

Preliminary views

In the draft report, the ACCC highlighted a potential issue concerning the intersection between the standard access obligations under Part XIC of the *Competition and Consumer Act 2010* (Cth), and industry obligations to combat scams under Industry Code C661:2022 *Reducing Scam Calls and Scam SMS*. Further, the ACCC noted Telstra's request that the ACCC consider including mechanisms in the declaration service descriptions, or subsequent access determinations, for the fixed terminating access service and mobile terminating access service to allow providers to refuse to terminate traffic that they suspect is scam or harmful to their end-users.⁸⁵

In the draft report, the ACCC proposed that should the FTAS and MTAS continue to be declared, it would consider this issue as part of any access determination inquiry process, rather than through the declaration process.

Submissions

Aussie Broadband submitted that the Industry Code C661:2022 *Reducing Scam Calls and Scam SMS* should be used to combat scams, rather than via declared services.⁸⁶

Commpete, Pivotel and Telstra submitted that the intersection between the standard access obligations and scam obligations is best considered as part of the subsequent access

⁸¹ Symbio, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 3.

⁸² Section 152AL(1) of the CCA.

⁸³ Section 152AL(3) of the CCA.

⁸⁴ Section 152AM(2) of the CCA.

⁸⁵ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – discussion paper](#), July 2023, p 20.

⁸⁶ Aussie Broadband, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 1.

determination inquiries.⁸⁷ Telstra submitted that it is in the long-term interests of end-users to support industry measures to address scam and spam SMS and call traffic.⁸⁸ TPG Telecom also submitted that the ACCC must include conditions in its voice termination service description to allow mobile network operators to prevent scam traffic from entering Australia's public mobile networks.⁸⁹

On the other hand, Commpete urged the ACCC to closely consider access determination safeguards to ensure any-to-any connectivity, and that access providers are not given the means to disrupt legitimate access seeker traffic. Commpete expressed concerns that since early 2023, some mobile network operators have been disrupting legitimate traffic in the name of scam prevention. Commpete also outlined concerns with the mobile network operators' practice of whitelisting numbers, noting that it could provide insight into an access seeker's customer base and may begin to attract a charge.⁹⁰

Final position

Consistent with the views expressed in the final report for the declarations of the domestic transmission and capacity service and the fixed line services, the ACCC does not propose to address this issue by revising the service description of the MTAS in this inquiry. Rather, the ACCC intends to consider this issue through the access determination process.

The ACCC will soon commence a combined access determination inquiry for the voice interconnection services. Among other matters, the ACCC intends to consider whether the access determinations for these services should include terms that support or facilitate the adoption of measures that address scam traffic by industry. As part of the access determination inquiry, we will consider submissions made in response to the draft report and will consult with relevant stakeholders, including consumers, industry and the ACMA.

⁸⁷ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 3-4; Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 9; Telstra, [Submission in response to ACCC draft report - mobile terminating access service](#), February 2024, pp 20-21.

⁸⁸ Telstra, [Submission in response to ACCC draft report - mobile terminating access service](#), February 2024, pp 20-21.

⁸⁹ TPG Telecom, [Submission in response to ACCC draft report - mobile terminating access service](#), February 2024, p 14.

⁹⁰ Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 3-4.

5. Should SMS termination services be declared?

As a result of the previous MTAS declaration inquiry in 2019, the ACCC decided to remove SMS termination services from the MTAS service description on the basis that it was no longer satisfied that the inclusion of SMS termination services would promote the long-term interests of end-users.⁹¹

Prior to and as part of this inquiry, there have been submissions from stakeholders which advocated for the inclusion of SMS termination services in the MTAS service description again.⁹² In light of this, the ACCC considered it appropriate to assess whether the inclusion of SMS termination services in the MTAS declaration would promote the long-term interests of end-users as part of this inquiry. This Chapter sets out the ACCC's final position on this issue.

5.1. Introduction

5.1.1. What are the services?

SMS termination services are wholesale services provided by mobile network operators to carry SMS from a point of interconnection to their mobile subscribers. There are two types of SMS: P2P SMS and A2P SMS. A2P SMS messages are sent using online applications by enterprises, businesses and government organisations to mobile subscribers and are used for a variety of purpose such as appointment reminders, multi-factor authentication, delivery updates and marketing. P2P SMS are messages sent between mobile subscribers using their mobile services and are generally for personal purposes.

As P2P SMS are SMS sent between mobile subscribers' mobile devices, it is generally the case that the originating network is also a mobile network. On the other hand, as A2P SMS do not originate from a mobile subscriber, the originating network need not be a mobile network operator, but they need to have the necessary interconnection arrangements with the terminating mobile network operator. Experience with the previous declaration of SMS termination service suggest that the only parties that have so far been able to acquire and supply SMS termination services are the MNOs, including Pivotel.

Consistent with the ACCC's preliminary view expressed in the draft report, we consider it appropriate to consider SMS termination for the purposes of providing P2P SMS and SMS termination for the purpose of providing A2P SMS separately. This is because:

⁹¹ ACCC, [Domestic Mobile Terminating Access Service Inquiry – Final Report](#), June 2019, p 3.

⁹² Pivotel, [Mobile terminating access service declaration inquiry – 2018: discussion paper](#), May 2019, p 2; Pivotel, [Mobile terminating access service declaration inquiry – 2018: draft report](#), May 2019, p 1; Aussie Broadband, [Submission in response to ACCC discussion paper – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service](#), July 2023, p 2; Commpete, [Submission in response to ACCC discussion paper – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service](#), July 2023, p 2; Pivotel, [Submission in response to ACCC discussion paper – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service](#), July 2023, p 4; Symbio, [Submission in response to ACCC discussion paper – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service](#), July 2023, p 2; Virtutel, [Submission in response to ACCC discussion paper – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service](#), July 2023, p 3.

- submissions from stakeholders differ on the extent to which declaration will promote the long-term interest of end-users of P2P SMS and A2P SMS, and
- importantly, a significant development since the last declaration inquiry in 2019 is the ability of the mobile network operators to distinguish A2P SMS termination from P2P SMS termination.⁹³ The ACCC considers this development means that A2P SMS termination and P2P SMS termination can be considered two separate services with each associated with their separate downstream markets.

5.1.2. Why have we historically regulated this service?

Similar to mobile voice termination services, each network has exclusive access to its subscribers for the purposes of delivering SMS. In 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. This could limit the services available to consumers and undermine competition in downstream markets.

5.1.3. Previous declaration inquiries

In 2014, the ACCC decided to vary the MTAS service description to include SMS termination services. The ACCC heard concerns that SMS termination rates were priced well above cost and had remained constant for 10 years despite a steep increase in SMS use by consumers. In the downstream retail market for mobile services, the ACCC found that price competition was subdued, and that most SMS offers, particularly to low spend consumers, were costly.

In 2019, the ACCC decided to vary the MTAS service description to remove SMS termination services. The ACCC found that by that time over-the-top messaging services were close substitutes for person-to-person SMS and therefore act as constraint on the mobile network operators' ability to exercise market power with respect to the provision of SMS termination services. The ACCC also found limited evidence that the declaration of SMS termination had improved retail offers in A2P SMS and that there appear to be increasing options for businesses in communicating with their customers other than SMS.

5.2. Person-to-Person (P2P) SMS termination

This section provides the ACCC's final views on whether varying the MTAS service description to include P2P SMS termination will promote the long-term interests of end-users.

5.2.1. Promoting competition in relevant markets

Relevant markets and state of competition in relevant markets

Consistent with the ACCC's preliminary view expressed in the draft report, the ACCC considers that the following markets are relevant in assessing whether declaring P2P SMS termination services would promote competition:

- wholesale markets for P2P SMS termination services, and

⁹³ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – discussion paper](#), July 2023, p 8.

- retail market for P2P messaging services.

The wholesale markets for P2P SMS termination services

P2P SMS termination services are an essential input to the provision of P2P SMS services in downstream market, as they enable mobile network operators to provide SMS services to subscribers that include the sending of SMS to subscribers on a different network.

Consistent with the preliminary views expressed in the draft report,⁹⁴ the ACCC considers each mobile network operator has exclusive control of P2P SMS termination on its network, and there are no substitutes to P2P SMS termination at the wholesale level. However, whether the MNOs have the ability and incentives to exercise their market power over the provision of P2P SMS termination services will depend, among other things, on whether there are close substitutes to P2P SMS services at the retail level. This is discussed below.

The retail market for P2P messaging services

As noted in the draft report, the ACCC recognises that P2P SMS services are purchased as a bundle of mobile services which includes mobile voice and data services. For the purpose of assessing whether declaring P2P SMS termination services would promote competition, the ACCC considers it is useful to separate out the provision of P2P SMS as a messaging service and identify whether close substitutes exist for this particular service. This is consistent with the approach taken by the ACCC in the previous declaration inquiry in 2019.⁹⁵

Consistent with discussions in the draft report, the ACCC observes that:

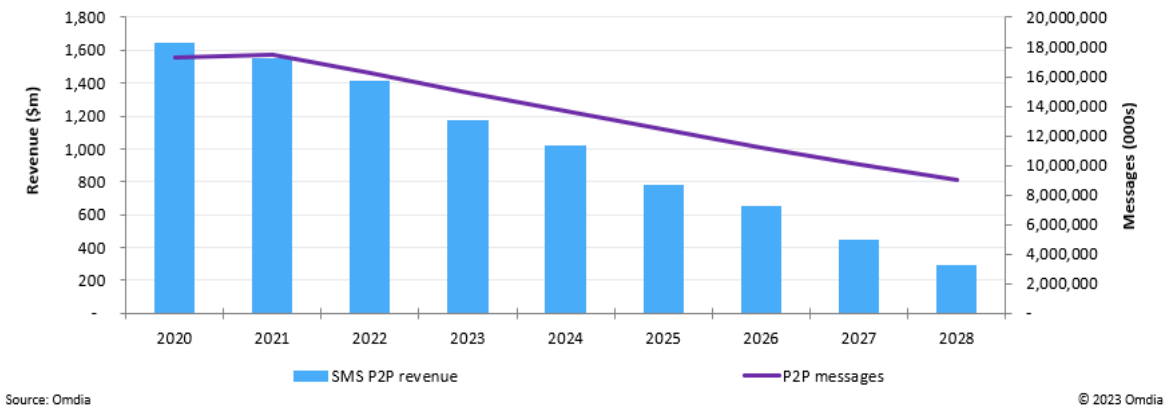
- P2P SMS volumes and revenues had continued to decline following removal of the SMS termination service from the MTAS in 2020 (see Figure 5.1 below).
- On the other hand, the uptake of over-the-top messaging services has continued to grow significantly, and this is expected to continue. The volumes of P2P SMS are only around a fraction of the volumes of over-the-top messages (see Figure 5.2 below).⁹⁶

⁹⁴ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 60.

⁹⁵ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 58.

⁹⁶ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, pp 59-60.

Figure 5.1: Person-to-person SMS volumes and revenue continued to decline



Source: Omdia, Mobile Messaging Traffic and Revenue Forecast: 2023-28, Omdia, 2023.
 Note: All data presented are forecasts/estimates.

Figure 5.2: Volume of over-the-top messages dwarf that of person-to-person SMS – 2020 to 2027



Source: Omdia, Mobile Messaging Traffic and Revenue Forecast: 2023-28, 2023; Omdia, Messaging Apps: User, Traffic, and Revenue Forecast 2022-27, 2023.
 Note: All data presented are forecasts/estimates.

Submissions to the draft report that commented on this market generally agree that over-the-top services now appear to be close substitutes for P2P SMS services. For instance, Pivotel submitted that as per the HoustonKemp report over-the-top services may be a viable substitute for P2P SMS.⁹⁷ Telstra and Optus also agreed with this view.⁹⁸

Based on this information, the ACCC’s final position is that that over-the-top messaging services are a close substitute to P2P SMS in the retail P2P messaging market. The prevalence of over-the-top messaging services likely will continue to exert competitive constraint on the MNOs at the retail level.

⁹⁷ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 5.

⁹⁸ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 19; Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p 4.

Is declaration likely to promote competition in relevant markets?

Preliminary view

In the draft report, the ACCC expressed the preliminary view that including P2P SMS termination in the MTAS declaration is not likely to promote competition in the retail market for P2P messaging services. The ACCC arrived at this preliminary view on the basis that:

- there are close substitutes to P2P SMS at the retail level;
- a lack of evidence that the MNOs have been able to exercise their market power in relation to the provision of P2P SMS termination services; and
- the retail market for messaging services appears competitive.⁹⁹

Submissions

Optus submitted that there is no evidence to support the case for the re-introduction of SMS regulation, including P2P SMS termination. Over-the-top services do not require the provision of SMS termination services and as such mobile network operators cannot exploit any monopoly power they may have over the provision of this service.¹⁰⁰

Final position

Consistent with the preliminary views expressed in the draft report, the ACCC's final position is that including P2P SMS termination the MTAS service description is not likely to promote competition in the retail market for P2P messaging services. Overall, the retail market for P2P messaging services is competitive with many over-the-top services available that are close substitutes to traditional P2P SMS. Additionally, there is a lack of evidence that a period without declaration has enabled the mobile network operators to exercise monopoly power in the provision of P2P SMS termination services.

5.2.2. Achieving any-to-any connectivity

Consistent with the preliminary views expressed in the draft report, the ACCC considers that varying the MTAS service description to include P2P SMS termination services is not likely to achieve any-to-any connectivity. This is because in the absence of declaration, commercial agreements have been reached regarding the provision of this service that enable the provision of P2P SMS services in the retail markets, allowing mobile subscribers to send P2P SMS to each other even if they are on different networks. Further, competitive constraint provided by over-the-top messaging services at the retail level means that the mobile network operators are unlikely to have incentive or ability to refuse to provide P2P SMS termination services in the absence of regulation.

⁹⁹ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 61.

¹⁰⁰ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp 6-7.

5.2.3. Encouraging efficient use of, and investment in, infrastructure

Consistent with the preliminary views expressed in the draft report,¹⁰¹ the ACCC considers that varying the MTAS service description to include P2P SMS termination is unlikely to promote the economically efficient use of infrastructure. In the absence of declaration, the ACCC considers that competition in the retail market for messaging would ensure that prices trend towards cost in the long run, providing incentives for end-users to use infrastructure efficiently.

The ACCC also considers that including P2P SMS termination in the MTAS declaration is unlikely to impact on the mobile network operators' investment incentives, as SMS represents a negligible proportion (approximately 0.1%) of overall traffic on mobile networks. This is despite the fact that unlimited SMS is now a standard feature of almost every mobile plan. As such, the ACCC does not consider that including P2P SMS termination in the MTAS is likely to encourage the economically efficient investment in infrastructure.

5.2.4. ACCC's final position is not to vary the MTAS to include P2P SMS termination

For reasons discussed above, the ACCC's final position is not to vary the MTAS service description to include P2P SMS termination services, as it is not satisfied that doing so will promote the long-term interests of end-users. Due to the presence of close substitutes in the form of over-the-top messaging services, the ACCC's final view is that including P2P SMS termination in the MTAS service description is not likely to promote competition in the retail P2P messaging market, achieve any-to-any connectivity or encourage the economically efficient use of and investment in infrastructure.

5.3. Application-to-Person (A2P) SMS termination

This section provides the ACCC's final views on whether varying the MTAS service description to include A2P SMS termination services will promote the long-term interests of end-users.

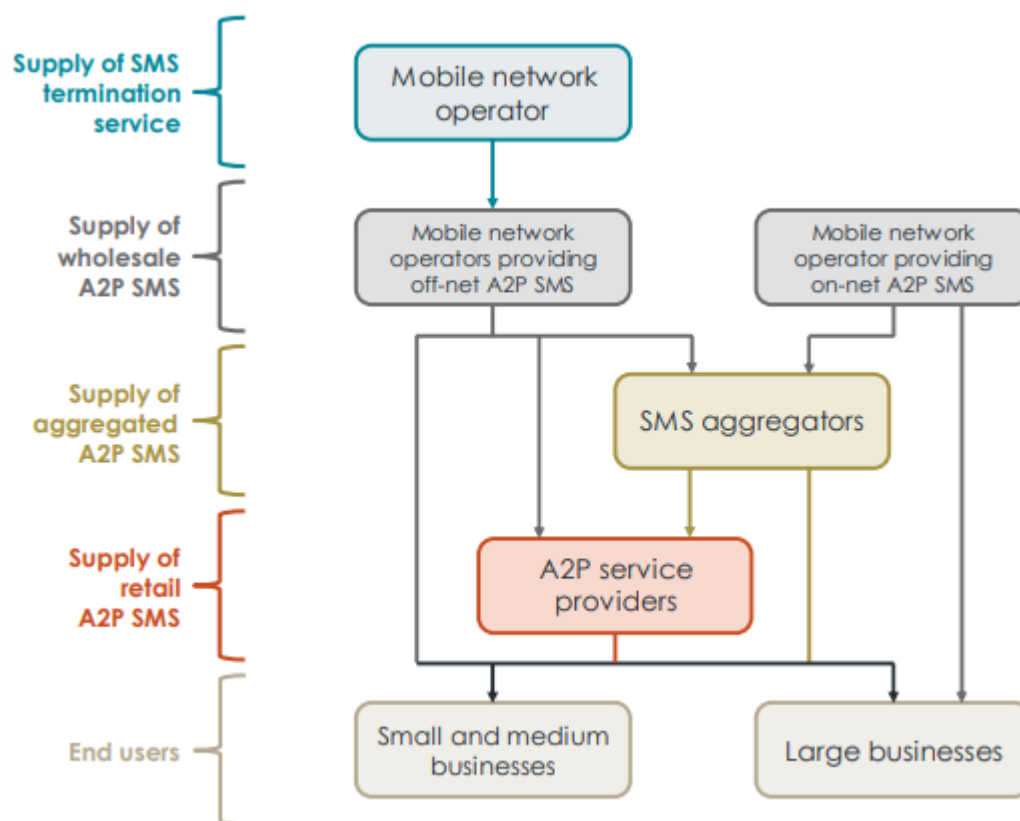
Overview of supply chain

The key suppliers of A2P SMS services in Australia are the mobile network operators (including Pivotal), the A2P SMS aggregators and A2P SMS retail providers.

Figure 5.3 below depicts the supply chain for the provision of A2P SMS services.

¹⁰¹ ACCC, [Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), December 2023, p 62.

Figure 5.3: The vertical supply chain of A2P SMS services



Source: Figure 2.1 in HoustonKemp’s report *Effect of declaration on competition in A2P SMS markets: A report for Pivotal*¹⁰²

The mobile network operators each control access to the delivery of A2P SMS to their mobile subscribers. The mobile network operators supply A2P SMS termination services to each other to enable the delivery of A2P SMS sent between their networks.

The mobile network operators also provide wholesale A2P SMS services to downstream suppliers such as A2P SMS aggregators and retail providers.

There are two types of wholesale services which the mobile network operators provide to A2P SMS aggregators and retail providers:

- **On-net services**, which involve the delivery of an A2P SMS to a mobile subscriber that is connected to the network of the mobile network operator that is providing the service (e.g. Telstra delivering an A2P SMS to a Telstra mobile subscriber). On-net delivery *does not require interconnection* so there is no A2P SMS termination service needed.
- **Off-net services**, which involve the delivery of an A2P SMS to a mobile subscriber that is connected to a network other than the network of the mobile network operator providing the service (e.g. Optus delivering A2P SMS to a TPG Telecom mobile subscriber). Off-net delivery requires interconnection so the mobile network operator must acquire an SMS termination service from another mobile network operator on whose network the recipient of the A2P SMS is connected.

¹⁰² HoustonKemp, [Effect of declaration on competition in A2P SMS markets: A report for Pivotal](#), 27 July 2023, p. 7.

A2P SMS termination is therefore not an essential input to the supply of A2P SMS services to downstream users, given the existence of wholesale on-net services.

Typically, A2P SMS aggregators negotiate commercial agreements with the mobile network operators and aggregate supply to downstream providers of A2P SMS services. A2P SMS aggregators, due to their scale, are able to access volume-based pricing discounts and supply wholesale services to smaller providers that may not have sufficient scale to negotiate with mobile network operators. A2P SMS aggregators typically supply aggregated A2P SMS services to retailers of A2P SMS, however they may also supply A2P SMS services directly to enterprises.

Retail A2P service providers add value by providing a user interface or platform for enterprises that want to send A2P SMS to their customers. Smaller enterprises that do not have large A2P SMS volume requirements typically acquire services from retail A2P SMS providers. An A2P SMS aggregator can also be a retail provider.

Mobile network operators also supply retail A2P SMS services to large enterprise users (e.g. banks, supermarkets, airlines) with large volume requirements, that are typically bundled with other services.

5.3.1. Promoting competition in relevant markets

Relevant markets and the state of competition in relevant markets

The ACCC considers that the relevant markets for the purpose of assessing whether including A2P SMS termination services in the MTAS declaration is likely to promote competition are:

- markets for A2P SMS termination services; and
- the wholesale and retail markets where A2P SMS services are supplied.

Markets for A2P SMS termination services

Preliminary view was that the A2P SMS termination markets are relevant in this inquiry

The mobile network operators supply A2P SMS termination services to each other to enable the delivery of A2P SMS sent between their networks. In the draft report, the ACCC expressed the preliminary view that each mobile network operator has exclusive control over the termination of A2P SMS to their mobile subscribers. For example, if a business end-user acquiring A2P SMS services from Telstra wishes to send an A2P SMS to an Optus mobile subscriber, Telstra must acquire A2P SMS termination services from Optus.

Submissions supported this view

Pivotel, Commpete, and Twilio made submissions in support of this view and they noted that there are currently no alternatives to termination in facilitating the delivery of A2P SMS between the mobile network operators' networks.¹⁰³

¹⁰³ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), March 2024, p.5; Commpete, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.2; and Twilio [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.3.

Final position

The ACCC's final position is consistent with that expressed in the preliminary report. Despite the mobile network operators not making submissions either in support of or contrary to the ACCC's preliminary market definition, the ACCC has not been presented or otherwise obtained information that would suggest that there are alternatives to termination with respect to the delivery of A2P SMS between MNOs.

State of competition in the markets for A2P SMS termination services

The ACCC's preliminary view was that termination prices have increased significantly

In the draft report, the ACCC noted that a significant development since the declaration of SMS termination was removed in 2019 is that the mobile network operators are now able to use new interconnect technologies to distinguish between P2P and A2P SMS termination. This development effectively enables the mobile network operators to set different prices for the provision for P2P and A2P SMS termination services.

The ACCC observed that the available evidence clearly indicates that commercial prices for terminating A2P SMS traffic, whether in the form of an explicit termination rate that applies to A2P SMS or a rate that applies to the volume that is likely to represent A2P SMS traffic, have increased significantly since 2019. However, the ACCC also observed that despite the increases in termination rates, all mobile network operators have continued to reach bilateral interconnection agreements with each other, and all mobile network operators have continued to be able to compete in downstream wholesale markets.

Submissions supported this view but national mobile network operators noted that termination prices are constrained by the availability of substitutes to A2P SMS in the downstream markets

The national mobile network operators submitted that the downstream markets for A2P SMS are currently competitive, notwithstanding the increases in A2P SMS termination rates. The national mobile network operators further submitted that the existence of substitutes to A2P SMS constrains their ability to exercise market power over the provision of A2P SMS services.¹⁰⁴

Telstra submitted that since deregulation, the national mobile network operators have incurred substantial costs associated with establishing advanced anti-spam systems and complying with industry rules and regulations designed to combat the proliferation of SMS scams. Telstra submitted that it is entirely appropriate for it and other mobile network operators to seek to recover these costs through the increases in termination rates.¹⁰⁵

On the other hand, Pivotal submitted that the national mobile network operators have the ability and incentive to substantially increase the prices of A2P SMS termination above cost in a way that is detrimental to competition and efficiency and that claimed substitutes

¹⁰⁴ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.11; TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.12; and Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp.4-5.

¹⁰⁵ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.12.

cannot provide a credible constraint on the national mobile network operators' exercise of market power.¹⁰⁶

Final position

The ACCC considers that all the mobile network operators continue to have exclusive control over A2P SMS termination services on their networks and that termination services do not have effective substitutes.

As described above, access to A2P SMS termination is not an essential input to the supply of A2P SMS services to downstream users, given the existence of wholesale on-net services. However, wholesale off-net A2P SMS services, which do require A2P SMS termination as input, are substitutable to wholesale on-net services. The A2P SMS termination rate is therefore still very important as it acts as a price floor for wholesale on-net services.

The evidence clearly suggests that the mobile network operators have raised the termination rates between themselves. The increases in termination rates have had a more significant negative impact on the operating costs and margins of Pivotal as it predominantly competes in the wholesale markets by supplying off-net wholesale services. It should be noted, however, that Pivotal has so far continued to operate in downstream wholesale markets despite increases to its costs.

The ACCC notes the claims by the national mobile network operators that they have made significant investments to address scams and that it is appropriate for them to seek to recover these investments through increases in termination prices. While the national mobile network operators have provided information about the nature of these investments, the ACCC has not been provided information that suggests that the mobile network operators have made these investments independent of their broader mobile service business.

The ACCC considers that whether the mobile network operators have an ability and incentive to raise A2P SMS termination prices in a manner that is detrimental to competition and efficiency depends on the extent to which increases in A2P SMS termination services are likely to lead to higher wholesale and retail prices in downstream markets. This is ultimately influenced by whether there is sufficient competitive constraint at the retail level. These are discussed in subsequent sections below.

Wholesale and retail markets in which A2P SMS services are provided

The ACCC's preliminary view was that there were likely no close substitutes to A2P SMS services

The ACCC noted in the draft report that due to the functional similarity of off-net and on-net A2P SMS services, a hypothetical wholesale price increase for on-net services provided by a mobile network operator is likely to be met by demand-side substitution by A2P SMS aggregators to off-net A2P SMS services provided by another mobile network operator. This means that the provision of off-net services is how the mobile network operators compete with each other in the wholesale markets. Pivotal is an operator that predominantly supplies off-net services in competition with the national mobile network operators.

At the retail level, the ACCC noted that businesses acquire A2P services from retailers of A2P SMS to send SMS messages from an application to their customers' mobile numbers for various use-cases. The ACCC considered a key question for this inquiry is whether there

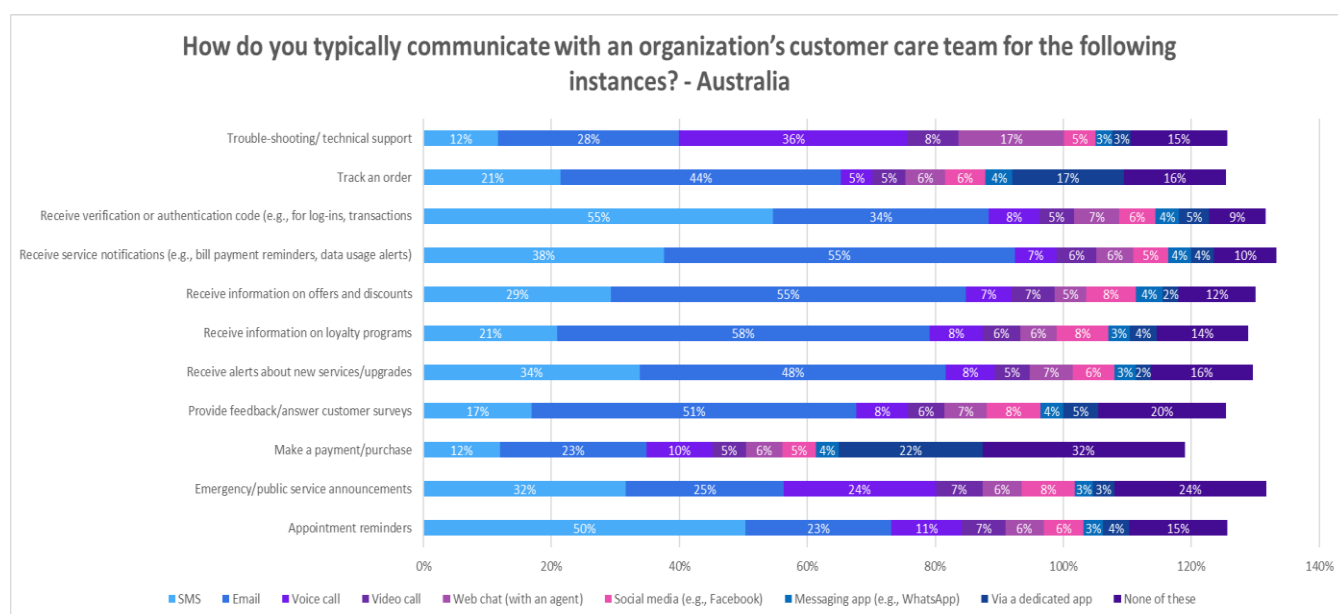
¹⁰⁶ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), March 2024, p.7.

are close substitutes for retail A2P SMS services such that they should be included in the same market for assessing whether declaration is likely to promote competition.

The ACCC expressed the preliminary view that, based on the information available at the time, there were currently no close substitutes to A2P SMS services for the purpose of enterprise to consumer communications, particularly for time-sensitive applications such as multi-factor authentication. These views were based on a number of observations:

- There are a range of communications methods that businesses can use to communicate with their customers for various purposes, such as A2P SMS, emails, calls, third party over the top applications, dedicated apps etc.
- However, A2P SMS appears the most popular method for time-sensitive applications such multi-factor authentication (see Figure 5.4 below).
- Despite the range of communications methods, there is no evidence indicating that this has resulted in reduction in the use of A2P SMS. In particular, it does not appear that over-the-top services has replaced A2P SMS as the predominant means of business to consumer communications as they have for P2P SMS.

Figure 5.4: A2P SMS is the main communication method for authentication and appointment reminders



Source: Omdia, *Digital Consumer Insights 2022: Advanced Messaging and Communications*, Omdia, 2022.

On the other hand, the ACCC acknowledged that the business communications markets are extremely dynamic and are characterised by continuous innovations and market developments. As such, the ACCC sought stakeholder views on whether recent developments, such as Apple’s announcement to integrate Rich Communications Services (RCS) in iOS systems would likely result in a shift away from A2P SMS within the next 3 to 5 years.

While some submissions supported the ACCC’s preliminary market definition, the national mobile network operators strongly disagreed

Stakeholders such as Pivotel, Commpete, Aussie Broadband, and Twilio supported the view that there are no close substitutes to A2P SMS services.

Pivotal submitted that its experience confirms the ACCC's preliminary view that multi-factor authentication is a particularly significant use case and that the ACCC's view that the use of A2P SMS for this purpose is likely to continue to grow.¹⁰⁷

According to Pivotal, SMS holds significant advantages over other delivery methods for multi-factor authentication and one-time-password use cases. These include its ubiquity, reliability, speed of delivery and ease of access on the move (particularly for those consumers that do not have email access on their mobile devices). Pivotal also noted that Australian Government initiatives to combat scams may mean that use of A2P SMS to provide for multi-factor authentication is likely to become even more deeply entrenched as more enterprises may look to incorporate stronger security measures as part of their operations.¹⁰⁸

However, the national mobile network operators submitted that the ACCC had not demonstrated that retail A2P SMS services is a relevant market and that it is not subject to competitive constraint from the provision of alternatives.

The national mobile network operators claimed that over-the-top services are substitutes to A2P SMS services, and there is strong evidence of Australian enterprises increasingly adopting over-the-top messaging apps to communicate with consumers.¹⁰⁹

Telstra submitted that while COVID-19 had indeed accelerated enterprise use of A2P SMS, there are indications that the global growth in adoption has slowed since 2020. Telstra further noted that, while the pandemic has resulted in a rapid increase in the use of A2P SMS for multi-factor authentication, this may have been inflated by the unique pandemic situation and would potentially normalise in due course. Telstra also submitted that there appear to be a trend globally and in Australia to shift away from A2P SMS in facilitating multi-factor authentication towards more secure channels.¹¹⁰ Telstra also noted that in conducting multi-factor authentications, large enterprises are increasingly adopting digital service alternatives such as enterprise business messaging apps, push authentication, and passkeys.¹¹¹

Telstra and Optus submitted that Apple's announcement to integrate RCS in iOS is seen by market participants as a catalyst for a more rapid adoption of RCS and accelerate the reduction in enterprise reliance on A2P SMS.¹¹² Telstra also submitted that regulatory changes in the European Union requiring increased interoperability between gatekeeper digital platforms will likely improve the substitutability of over-the-top apps in the medium term.¹¹³

¹⁰⁷ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), March 2024, p.6.

¹⁰⁸ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), March 2024, p.6.

¹⁰⁹ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp. 5-6; Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.6; and TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.5.

¹¹⁰ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.8.

¹¹¹ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp.7-8.

¹¹² Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.10; and Optus [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp. 12-14

¹¹³ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp. 5-6.

TPG Telecom submitted that the evidence from Omdia which the ACCC has relied on in the draft report shows that there are a significant number of alternatives for enterprises to communicate with consumers, and, even for time-critical use cases such as multi-factor authentication and appointment reminders, there was no evidence that enterprises were locked-in to using A2P SMS.

The ACCC sought further information to inform the boundaries of the market

While the information provided by the stakeholders in submissions are useful in demonstrating the existence of potential alternatives to A2P SMS for various use cases potential trends in the use of these alternatives, the ACCC considered they did not indicate clearly whether these alternatives provide a competitive constraint on the national mobile network operators' ability to exercise market power in the A2P SMS markets in Australia.

To further inform the ACCC's view on this issue, the ACCC sought further information from A2P SMS aggregators, retail SMS service providers, and Australian business and government enterprises to understand how A2P SMS is currently used to communicate with consumers and the extent to which alternatives are considered as substitutes.

The ACCC requested information from several businesses, governments, and suppliers of A2P SMS on various issues. We sought information from medium to large-sized enterprises across a number of industries which are likely to rely on A2P SMS to communicate with consumers and thus may be more significantly impacted by hypothetical future changes in prices. We sought information regarding how enterprises currently use A2P SMS. We also sought information on the use cases which they primarily use A2P SMS for and why. In addition, we sought information on how they use alternatives to A2P SMS in communicating with consumers and their views on their ability to switch to alternatives if the prices for A2P SMS services were to increase.

The ACCC also requested information from several A2P SMS aggregators and retailers regarding trends in the prices and operating costs of providing A2P SMS services, the level of enterprise demand for A2P SMS, and their views on how demand will likely change in the near future. We also sought information on the level of enterprise take-up of alternatives to A2P SMS (such as over-the-top apps, email, voice) and their views on the degree of substitutability of these alternatives with A2P SMS.

We received information from 34 enterprises and from 11 A2P SMS aggregators and retailers.

Based on significant input received from enterprises that use A2P SMS, the ACCC found the following:

- Enterprises generally use a variety of communications channels to communicate with their customers. This is the case across a range of use cases, including multi-factor authentication.
- There is strong reliance on A2P SMS to communicate with consumers currently for time-sensitive use cases such as multi-factor authentication and appointment reminders. Out of the respondents that use A2P SMS for multi-factor authentication and appointment reminders, 95% and 57% respectively indicated that A2P SMS is the primary method for that use case. There was indication from respondents that this reliance will likely continue and increase in the future.
- The reasons for enterprises preferring A2P SMS for multi-factor authentication and appointment reminders include the ubiquity of SMS, immediacy of notification, and greater delivery and open-rates of SMS relative to alternatives.

- There is less reliance on A2P SMS for some use cases, such as marketing where only 7% of respondents that use A2P SMS for this purpose noted that A2P SMS is the primary method. Even for use cases such as delivery updates, bill reminders, and other service updates, only around 30% to 40% of respondents use A2P SMS as the primary method.
- Reasons for preferring other communications channels instead of A2P SMS for some use cases include the need to provide greater level of detail or information, cost-effectiveness, less intrusive way of contacting customers and greater level of trust in the communication method.
- Enterprises are increasingly diversifying their communications channels and are incrementally tailoring their dedicated enterprise mobile applications for multi-factor authentication and other use-cases to better cater for the communications preferences of their consumers.
- There is no evidence that third-party over-the-top messaging services are currently presenting a close substitute to A2P SMS. 63% of the respondents use third-party over-the-top messaging services in some form, but the majority of those (65%) noted that these are customer-initiated interactions. The remainder indicated business-initiated interactions through these channels, but generally only when a customer provided comments on a public forum such as Facebook in the first instance.
- Dedicated mobile apps appear to have the potential to cater for a range of use cases. However, proliferation of this method depends on the enterprises' appetite to develop dedicated apps as well as customer take-up. Currently, use of dedicated mobile applications remains low overall. 56% of respondents reported having a dedicated mobile app. On average an estimated 31% of respondent's customers have the app installed.
- The speed at which enterprises are adopting alternative channels vary significantly. For instance, the banking and financial services sector appear to have more customers using dedicated mobile apps compared to the retail sector. It also appears that many enterprises are not actively seeking alternative methods.
- Enterprises' ability to switch to alternative communications channels also appears to vary for different use cases. Many respondents noted that they could mitigate the costs of any price increase by switching to alternative methods for some uses but it would be difficult to do so for time-sensitive use cases such as multi-factor authentication.
- While there is a general desire to explore alternative communication channels, actual shift towards these methods will likely depend on many factors such as access to technology, cost considerations, customer education and security concerns. Most respondents indicated they are unlikely to move away from A2P SMS, even if they are adopting other methods.

A2P SMS suppliers which provide other enterprise communication channels (such as over-the-top services, apps, email, and voice) in addition to A2P SMS reported that the take-up of alternatives to A2P SMS in Australia remains low. A2P SMS aggregators noted that third-party over-the-top services for enterprise use are not "zero marginal cost" and there are costs associated with their use. Furthermore, A2P SMS aggregators noted that A2P SMS is usually cheaper than using over-the-top apps.

Final position

The ACCC considers it is possible that, for some use cases, there are alternatives to A2P SMS which are currently close substitutes for A2P SMS services. Further, it is possible that alternatives may increasingly become substitutable to A2P SMS in the future. These substitutes may, to some extent, constrain the mobile network operators in the pricing of A2P SMS termination.

Despite this, businesses currently heavily rely on A2P SMS for certain use cases, most notably multi-factor authentication. It is unclear the extent to which substitutes for these use cases are likely to constrain the pricing of A2P SMS termination in the near to medium term.

The ACCC considers that, given the mobile network operators cannot price discriminate between various A2P SMS use cases – that is between use cases that may have good substitutes to those that have weak or no substitutes, it is possible that they may need to have at least some regard to overall response in demand in setting A2P SMS prices.

On balance, the ACCC considers national mobile network operators are likely to have some degree of market power with respect to the provision of A2P SMS services. In turn, it is likely national mobile network operators will set prices for the service above its underlying cost of production. However, based on current evidence, it is unclear the extent to which this market power will continue to exist into the future and the extent to which national mobile network operators will attempt to raise prices for A2P SMS services.

State of competition in downstream markets

Preliminary view

In the draft report, the ACCC made a number of observations on the developments in the wholesale markets for A2P SMS services since SMS termination was removed from the MTAS in 2019:

- The mobile network operators' wholesale A2P SMS revenues earned from SMS aggregators and A2P service providers have increased significantly since 2019.
- So far, the increases in revenues appear to have been driven by the increase in overall demand, and not an increase in wholesale prices for A2P SMS services. Information provided by some operators show a slight downward trend in the average wholesale A2P SMS price per message.
- The reduction in wholesale prices despite the increase in demand may be due to the operators' tiered wholesale pricing structures. The higher demand and volumes for A2P SMS messages in the market means that aggregators can access higher volume-based discounts under tiered pricing structures and this may have led to the reduction in the average wholesale A2P SMS prices over time.
- Information provided to the ACCC indicates that the wholesale markets for A2P SMS services have been subject to competition. In particular, there is evidence that Pivotal has been able to effectively compete with the national mobile network operators in these markets.

Despite these observations, the ACCC expressed concerns that the continued increases in A2P SMS termination rates would likely undermine the ability of operators such as Pivotal to compete with the national mobile network operators in the future by increasing their costs of providing off-net services. The ACCC also considered that increases in the A2P SMS

termination rates between the national mobile network operators could also undermine their incentives to compete with each other in providing off-net services in the wholesale markets.

The A2P SMS termination rate represents the marginal cost of providing off-net services, and therefore sets the floor price for on-net services. Even though A2P SMS termination service is not an essential input to wholesale on-net services, the ACCC expressed concern that increases in A2P SMS termination rates could have the effect of undermining competition in the wholesale markets for A2P SMS services by increasing the cost of off-net services.

The ACCC expressed the preliminary view that whether the national mobile network operators have the ability to continue to raise A2P SMS termination rates, and in turn wholesale A2P SMS prices, would depend on whether there are close substitutes available for enterprises to switch to which would then constrain their ability to exercise market power at the wholesale level.

Submissions

The national MNOs submitted that the evidence shows that wholesale prices charged by the mobile network operators to A2P SMS aggregators and retailers have continued to fall since A2P SMS termination was deregulated. The national MNOs submitted that this shows that the market remains competitive.

Telstra and TPG Telecom submitted that given the existence and growing strength of substitutes to A2P SMS for enterprise communications, the mobile network operators are incentivised to provide competitive prices at the wholesale level. TPG Telecom submitted that enterprise users of A2P SMS are sophisticated and have very strong incentives to cut costs. According to TPG Telecom, enterprises can switch to alternatives if A2P SMS does not represent value for money.¹¹⁴ TPG Telecom further added that if a mobile network operator increases rates to an extent where end-user prices are increased, the mobile network operator will accelerate the demise of their own A2P SMS business.¹¹⁵

Telstra submitted that the increases in A2P SMS termination rates charged by the national mobile network operators to Pivotal were predicted by the ACCC when it deregulated A2P SMS termination in 2019 and that, as the ACCC considered then, these are a normal by-product of commercial negotiations. According to Telstra, the national mobile network operators and Pivotal have strong incentives to continue to supply A2P SMS termination to each other on a commercial basis, as they have been doing since the service was deregulated in 2019. Telstra also noted that, consistent with the ACCC's predictions then, Pivotal has remained a vigorous competitor in the wholesale markets despite the increases to its costs.¹¹⁶

TPG Telecom submitted that the continued reductions in A2P SMS wholesale prices despite the increases in A2P SMS termination rates shows that there may not be a direct link between the two.

¹¹⁴ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.10.

¹¹⁵ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.11.

¹¹⁶ Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, pp.11-12.

Sinch supported the claims by the national mobile network operators that the wholesale A2P SMS market in Australia is competitive and added that it is in the cheapest 5 per cent of A2P SMS wholesale markets worldwide.¹¹⁷

Pivotel on the other hand submitted that, absent declaration, the national mobile network operators will have an ability and incentive to continue to raise A2P SMS termination rates and wholesale on-net prices. As evidence of this, Pivotel noted that MNOs have attempted to raise A2P SMS termination charges as part of recent negotiations. The increases in the termination rates will make it more difficult for Pivotel to compete in the provision of wholesale off-net services to A2P SMS aggregators.

Final position

Information currently available to the ACCC indicate that wholesale prices charged to A2P SMS aggregators and retailers have been falling despite the increases in A2P SMS termination rates between the national mobile network operators and Pivotel. This is supported by the additional information that was sought by the ACCC from A2P SMS aggregators and retailers as part of this inquiry.

While many A2P SMS aggregators and retailers reported that in general various operating cost items have been increasing to a significant degree, including from rising labour costs and costs associated with complying with anti-scams regulations, A2P SMS aggregators and retailers did not raise concerns about the current level of wholesale prices charged by the mobile network operators. Some A2P SMS aggregators and retailers however noted developments in overseas markets where wholesale A2P SMS prices charged by mobile network operators have been rising.

A number of A2P SMS aggregators have also raised concerns about the recent consolidation in the aggregator market, claiming that this has provided competitive advantages to some operators. For example, given the volume-based tiered pricing structure in the market, the larger aggregators benefit from lower prices charged by mobile network operators and thus can provide the most competitive rates to downstream retailers of A2P SMS.

The ACCC considers that it is possible that the increases in A2P SMS termination rates to date have not yet rippled through to downstream markets. Commercial negotiations can take significant time and it may also take time for any increase in A2P SMS termination rates between the mobile network operators to impact downstream markets.

On the other hand, falling wholesale prices in the presence of increases in A2P SMS termination rates to date, could reflect increases in competitive constraints posed by emerging alternatives to A2P SMS at the retail level. As noted above, however, the extent to which available substitutes effectively constrain pricing of A2P SMS services is unclear and is likely to vary depending on the use cases for which A2P SMS services are demanded.

On balance, the ACCC considers it is uncertain the extent to which wholesale prices for A2P SMS termination will rise (if at all) in a future without declaration of an A2P SMS termination service. The ACCC would be concerned, however, if evidence emerged of significant and sustained increases in wholesale A2P SMS prices in the future.

¹¹⁷ Sinch, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.4

Retail market for A2P SMS services

Preliminary view

In the draft report, the ACCC observed that there is no obvious indication that the competitive environment in the retail A2P SMS market has materially changed since SMS termination was removed from the MTAS in 2019. This was based on preliminary assessment that that number of retail A2P SMS service providers and retail prices for A2P SMS services appear to have remained stable since 2019.

However, the ACCC expressed concern that sustained increases in A2P SMS termination rates and any subsequent increase in wholesale A2P SMS prices may ultimately result in increased retail A2P SMS prices, due to the lack of close substitutes presently. The ACCC noted that it may take time for any changes in the commercial arrangements of A2P SMS termination between the mobile network operators, and between the mobile network operators and Pivotal, to impact on the wholesale and retail markets.

Submissions

The national mobile network operators supported the ACCC's preliminary view that prices at the retail level have so far not been impacted by the increases in A2P SMS termination rates and that they have instead fallen. The national mobile network operators submitted that this is evidence of a competitive retail market.¹¹⁸

Sinch, a large A2P SMS aggregator, also supported the claim that there has been a decrease in the retail price of A2P SMS following the end of declaration in 2019.¹¹⁹

Pivotal, on the other hand, submitted that despite the reductions to A2P SMS retail prices thus far, the relevant inquiry for the ACCC is forward-looking and whether these will continue in future. Pivotal argued that the national mobile network operators have an ability and incentive to raise A2P SMS termination to the detriment of competition at the wholesale and retail levels.¹²⁰

The ACCC likewise heard from A2P SMS retailers that retail prices have been falling. The more significant concern among A2P SMS retailers has been the increases in operating costs, particularly labour costs.

Final position

The ACCC agrees with Pivotal that the ACCC's assessment in relation to the future with or without declaration is forward-looking. However, as noted in relation to the wholesale A2P SMS market, there is uncertainty as to future price movements. The ACCC considers that the same applies to the retail A2P SMS market.

¹¹⁸ Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.9; and TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.5.

¹¹⁹ Sinch, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – draft report](#), February 2024, p.4.

¹²⁰ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Response to Telstra's submission to the draft report](#), March 2024, p.9.

Is declaration likely to promote competition in relevant markets?

Preliminary view

In the draft report, the ACCC expressed the preliminary view that, on balance, 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.

The ACCC considered that without declaration A2P SMS termination rates will likely continue to increase because:

- The national mobile network operators have the incentive to do so, because higher A2P SMS termination rates increase the cost of providing off-net services, and allows the national mobile network operators to exercise market power by charging higher prices for the provision of on-net services.
- The national mobile network operators currently likely have the ability to do so, because of the lack of close substitutes at the retail level that may constrain the exercise of their market power in the provision of A2P SMS termination services.

In a future with declaration, the ACCC expressed the preliminary view that competition in the wholesale A2P SMS market is likely to be enhanced, because declaration would restrict the national mobile network operators' ability to exercise market power in the provision of A2P SMS termination services. The ACCC considered that this would likely enhance the ability of operators that could access A2P SMS termination services to compete with the national mobile network operators and incentivise the national mobile network operators to compete with each other in the wholesale markets. 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.

Submissions

Pivotal agreed with the ACCC's preliminary view that, absent declaration, the national mobile network operators will have the ability and incentive to substantially increase prices for termination in a manner that will be detrimental to competition and efficiency.¹²¹

The national mobile network operators disagreed with the ACCC's preliminary view.

Telstra stated that regulation should only be introduced in instances where there is evidence of clear market failure which results in consumer detriment.¹²² Telstra and TPG Telecom noted that the ACCC cannot have evidence of this given that downstream prices have continued to fall despite increased termination costs. TPG Telecom noted that if the ACCC were to declare A2P SMS termination, it should have evidence retail A2P SMS pricing is directly subservient to termination costs.¹²³

However, Pivotal argued that there is no requirement for the ACCC to be satisfied that market failure has already occurred in order for it to declare a service. Instead, Pivotal argues that the ACCC must simply be satisfied that declaration will promote competition. In

¹²¹ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – submission to the draft report](#), March 2024, p.7.

¹²² Telstra, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – supplementary submission to discussion paper](#), October 2023, p.2.

¹²³ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – supplementary submission to draft report](#), April 2024, p.3.

the event that there is already market failure, Pivotel argued that there will be a clear need for intervention.¹²⁴

Final position

The ACCC's final position is that there is currently an insufficient basis to conclude that varying the MTAS declaration to include A2P SMS is likely to promote competition in the wholesale and retail markets for A2P SMS services.

Contrary to submissions by the national mobile network operators, evidence gathered by the ACCC suggests that enterprise use of A2P SMS is significant and growing. Enterprises reported relying heavily on A2P SMS on various use cases, particularly to facilitate time-critical messages such as multi-factor authentication.

However, evidence also suggests that enterprises have access to and do use alternatives to A2P SMS, even for time-critical use-cases. The alternatives appear to be stronger substitutes for some use cases (e.g marketing), and weak substitutes for others, especially multi-factor authentication. Overall, it is unclear whether the existence of these alternatives provide sufficient competitive constraint on the mobile network operators' ability to exercise market power.

Given the significant use of A2P SMS in the future and uncertainty regarding the future substitutability of alternatives to A2P SMS for some use cases, the ACCC remains concerned that the national mobile network operators may seek to raise the prices of A2P SMS above competitive levels in future. However, on the basis of the information provided, the ACCC has not been able to conclude with sufficient confidence that the national mobile network operators are likely to profitably elevate the prices of A2P SMS to the detriment of end-users in the future or whether the existence and threat of alternatives will be likely to sufficiently constrain the conduct of national mobile network operators.

To date, despite the increases in A2P SMS termination prices charged by the national MNOs and Pivotel among themselves, there has not been a resulting increase in the wholesale prices charged to A2P SMS aggregators, and likewise there has not been increases in the retail prices charged to enterprise users who are the ultimate end-users of A2P SMS.

The ACCC's final position is that while there is cause for concern that the national mobile network operators may potentially raise the prices of A2P SMS in a future environment where enterprise use of A2P SMS will continue to be significant and use of alternatives remains low, on balance the ACCC considers that declaring A2P SMS termination services is not likely to promote competition in downstream markets, compared to the future without declaration, at this point.

5.3.2. Achieving any-to-any connectivity

Preliminary view

In the draft report, ACCC expressed the preliminary view that any-to-any connectivity is not relevant to the declaration of A2P SMS termination services, based on the following rationale:

¹²⁴ Pivotel, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Response to Telstra's submission to the draft report](#), March 2024, p.2

- Any-to-any connectivity is in large part about the ability of end-users on different networks to communicate with each other using a relevant service.
- While A2P SMS termination services are technically interconnection services, they are not used to enable end-users on two networks to communicate with each other using SMS, in contrast to P2P SMS.
- While the provision of A2P SMS termination services may in some instances be an input in the provision of retail A2P SMS services used by a business, the business cannot be said to be an end-user on the network of the network operator that is acquiring the A2P SMS termination services.

Submissions

The ACCC did not receive substantive submissions on its preliminary view on this issue.

Final position

Consistent with the views expressed in the draft report, the ACCC's final position is that any-to-any connectivity is not relevant to the declaration of A2P SMS termination services.

5.3.3. Encouraging efficient use of, and investment in, infrastructure

Preliminary view

In the draft report, the ACCC expressed the preliminary view that varying the service description of the MTAS declaration to include A2P SMS termination services is likely to promote the economically efficient use of and investment in infrastructure because declaration is likely to promote competition in wholesale and retail A2P SMS services markets. The ACCC also considered that it may also provide more certainty to downstream market participants the A2P SMS termination services will be supplied on regulated terms and improve their confidence to invest in infrastructure.

In reaching this preliminary view, the ACCC acknowledged that the carriage of scam or other A2P SMS with a fraudulent purpose is not an efficient use of infrastructure. However, the ACCC considered that raising commercial prices is a blunt tool to deal with the scam issue as it is not targeted at scam traffic and can in fact result in overall inefficient use of infrastructure by suppressing legitimate use. The ACCC expressed the preliminary view that targeted measures to detect and combat scams are likely more effective in promoting overall efficient use of infrastructure. In this respect, the ACCC considered may be scope to explore whether measures can be developed in any access determination to support and facilitate industry activities to combat scams and comply with scam-related obligations.

Submissions

Significant concerns were raised by the national mobile network operators about declaration raising the number of A2P SMS scam volumes. They noted that declaration of A2P SMS termination services will lower the cost of sending A2P SMS for all downstream users, including for use in illicit services, and therefore increase the volume of scams being sent to consumers. The national mobile network operators noted that scam SMS will have

significant negative effects on consumers, as well as increase the resources asked of the mobile network operators and governments to deal with them.

TPG Telecom raised concerns that a potential declaration of A2P SMS termination services will mean that the mobile network operators cannot (or at least it will introduce uncertainty on their ability to) refuse or block A2P SMS traffic from other mobile network operators, which may potentially conflict with their other legal obligations to put in place measures to combat scams.¹²⁵ In the event that the ACCC declared the service, TPG Telecom and Optus did not consider that the ACCC could put in place carveouts in the final access determination to support and facilitate industry activities to combat scams and comply with scam-related obligations.¹²⁶

If the ACCC declares A2P SMS termination services, the national mobile network operators claimed that scam A2P SMS would increase significantly because they would be obligated provide access to all mobile network operators. TPG Telecom claimed that Pivotal, given its business model, has an economic incentive to maximise A2P SMS volumes and not hinder the sending of scam A2P SMS by its downstream users.¹²⁷ Pivotal disputed these assertions and noted that, as a licenced mobile network operator, it also has the exact same legal and regulatory obligations as each of the national mobile network operators. Pivotal pointed to the various investments it has made to address A2P SMS scam traffic and its involvement in a range of government and industry initiatives targeting scam issues.¹²⁸

The national mobile network operators also raised that they have incurred significant costs from putting in place systems and technologies associated with combatting scams and that it is entirely appropriate for MNOs to generate returns from these investments.

Final position

The ACCC remains concerned that the use of A2P SMS to conduct scams causes significant harm to the welfare of consumers. The ACCC also considers that the use of A2P SMS for scams or other fraudulent purposes is an inefficient use of infrastructure. To the extent the price of A2P SMS services paid by scammers does not reflect or account for the harm to the welfare of consumers from scam SMS, cost-based pricing of A2P SMS services may lead to inefficient levels of A2P SMS services.

However, the ACCC remains of the view that the mobile network operators raising A2P SMS prices in an effort to deter its use for illicit purposes is a blunt tool as it indiscriminately dampens not just demand for illicit purposes but also demand by enterprises for legitimate use cases. Raising prices is not the only means by which the mobile network operators can deter scams. In any case, it is unlikely that raising A2P SMS prices can sufficiently deter SMS scam activity given that the likely expected payoff from scams is likely, in many cases, to outweigh the per unit cost of sending an A2P SMS.

¹²⁵ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – submission to the draft report](#), February 2024, p.14.

¹²⁶ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – supplementary submission to the draft report](#), April 2024, p.4; and Optus, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – submission to the draft report](#), February 2024, p.2.

¹²⁷ TPG, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – submission to the draft report](#), February 2024, p.14.

¹²⁸ Pivotal, [Submission in response to the Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service – Response to Optus, TPG, and Sinch's submissions to the draft report](#), March 2024, p.10.

With or without declaration, the ACCC considers that all the mobile network operators will continue to have obligations under existing and proposed industry regulations to prevent and combat scams. The ACCC therefore considers that the mobile network operators will likely continue to make investments relating to anti-scam measures on their infrastructure with or without declaration, particularly given their existing and proposed legal obligations to put in place measures to combat scams.

The ACCC considers the more important issue is whether declaration of A2P SMS termination services will inhibit the mobile network operators' ability to combat scam, either because it requires significantly more effort on the mobile network operators' part due to increased scam traffic resulting from declaration, or that it creates a risk that the mobile network operators cannot stop scam traffic due to the obligation to provide access. These issues are likely material in determining the impact of declaration on the economically efficient use of infrastructure.

As discussed in the draft report, the ACCC is not satisfied that declaration will result in increased scam traffic, or that the mobile network operators' ability to combat scams is necessarily inhibited. As noted previously, the ACCC considers there is scope to include terms in the final access determination to facilitate and support the mobile network operators' effort to block scam traffic.

However, for the purposes of this inquiry, the ACCC does not consider it is necessary to provide a conclusive view on this issue. This is because, having regard to all the information available, the ACCC does not currently consider that declaration of A2P SMS termination services is likely to promote competition and encourage the economically efficient use of infrastructure in downstream markets. As such, the likely impact declaration on scam SMS and efficient use of infrastructure would not affect the ACCC's overall position on whether including this service in the MTAS declaration will promote the long-term interests of end-users.

5.3.4. ACCC's final position is to not vary the MTAS declaration to include A2P SMS termination services, however we will monitor market developments and intervene if necessary

For the reasons discussed above, the ACCC's final position is to not vary the service description of the MTAS declaration to include A2P SMS termination services as the ACCC is not satisfied, based on information and market conditions at this point in time, that doing so will promote the long-term interests of end-users.

However, the ACCC considers that A2P SMS will likely continue to be heavily relied on by enterprises in at least the near future. The ACCC considers there is a potential for prices to rise, but there are uncertainties on the degree to which the national mobile network operators can profitably sustain such price rises or whether these can be competed away by substitutes.

While the ACCC is not intervening in the A2P SMS markets at this point in time, the ACCC will closely monitor developments in the provision of A2P SMS services and other services used to facilitate enterprise-to-consumer communications. In particular, the ACCC will monitor the state of competition in relevant markets and movements in the levels of prices in these markets. During this time, the ACCC will also closely monitor any scam-related reforms, such as the formal implementation of the SMS Sender ID Registry and the proposed mandatory scam industry code framework.

Should information from such market monitoring activities indicate that the national mobile network operators are exercising market power, either unilaterally or in concert with each other, in increasing wholesale prices to the detriment of downstream suppliers and end-users, it would be open to the ACCC to intervene in the market by considering declaring an A2P SMS service. The ACCC has the power to initiate a public inquiry regarding the declaration of such a service, including outside the periodic review of the MTAS declaration. It would also be open to the ACCC to consider whether declaring an A2P SMS termination service (such as the one examined in this inquiry) or a wholesale A2P SMS service that the mobile network operators supply to the A2P SMS aggregators and retailers will promote the long-term interests of end-users.

Appendix A – domestic MTAS description

Domestic Mobile Terminating Access Service

The domestic mobile terminating access services is an access service for the carriage of voice calls from a point of interconnection, or potential point of interconnection, to a B-Party directly connected to the access provider's digital mobile network.

Definitions

Where words or phrases used in this Declaration are defined in the *Competition and Consumer Act 2010*, or the *Telecommunications Act 1997* or the *Telecommunications Numbering Plan 1997*, they have the meaning given in the relevant Act or instrument.

Other definitions

B-Party is the end-user to whom a telephone call is made.

Digital mobile network is a telecommunications network that is used to provide digital mobile telephony services.

Point of interconnection is a location which:

- a) Is a physical point of demarcation between the access seeker's network and the access provider's digital mobile network, and
- b) Is associated with (but not necessarily co-located with) one or more gateway exchanges of the access seeker's network and the access provider's digital mobile network.