

Attachment A

**ACCESS DISPUTE BETWEEN HUTCHISON 3G AUSTRALIA PTY LIMITED (ACCESS SEEKER)
AND
VODAFONE PTY LIMITED (ACCESS PROVIDER)
DOMESTIC MOBILE TERMINATING ACCESS SERVICE (MTAS)**

Access Dispute Notified under Subsection 152CM(1) of the *Trade Practices Act 1974*
on 30 December 2004

Interim Determination under Section 152CPA

Background

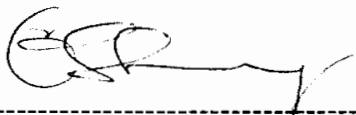
1. On 30 December 2004, the Australian Competition and Consumer Commission (the Commission) received written notification (the notification) from Hutchison 3G Australia Pty Ltd (H3GA) that an access dispute exists in relation to the supply, by Vodafone Pty Limited (Vodafone) to H3GA, of the Domestic Mobile Terminating Access Service (the MTAS). H3GA's notification was provided to the Commission pursuant to subsection 152CM(1) of the *Trade Practices Act 1974* (the Act).
2. The MTAS is an access service for the carriage of voice calls from a point of interconnection, or potential point of interconnection, to a B-Party (the end-user to whom a telephone call is made) directly connected to the access provider's digital mobile network.¹
3. After holding a public inquiry, the Commission declared the MTAS pursuant to subsection 152AL(3) of the Act. A copy of the declaration was published in the Commonwealth of Australia Gazette No. GN 28, 14 July 2004.
4. The notification states that H3GA and Vodafone entered into an access agreement for the supply of the MTAS by Vodafone to H3GA. This agreement was most recently amended on 15 July 2004. The current agreement for Vodafone to supply the MTAS to H3GA at a price of 21 cpm expired on 31 December 2004. The parties have not reached an agreement on terms and conditions for access to the MTAS for the period beginning 1 January 2005.
5. The notification specifies that the dispute is about the price at which the MTAS is to be supplied.
6. The Commission has formed the view that the requirements of subsection 152CM(1) of the Act are satisfied. That is:
 - Vodafone is a carrier;
 - Vodafone supplies the declared MTAS;
 - Vodafone has an obligation under subsection 152AR(3) of the Act to supply the MTAS to H3GA; and

¹ ACCC, Mobile Services Review Mobile Terminating Access MTAS, Final Decision, (the MTAS Final Report) June 2004, p. 239.

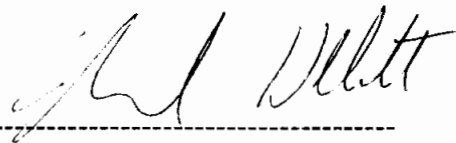
- The parties are unable to agree on the price at which Vodafone should supply the MTAS to H3GA from 1 January 2005 onwards.
7. Pursuant to subsection 152CPA(1) of the Act, this instrument is an interim determination relating to the terms and conditions of access upon which the MTAS is to be provided by Vodafone to H3GA.

Interim Determination

8. Except where the parties agree otherwise, the charge payable by H3GA to Vodafone for the MTAS is to be:
- 18 cents per minute (cpm) for the period from 14 July 2005 until 31 December 2005; and
 - 15 cpm for the period from 1 January 2006 to the period ending 12 months after 14 July 2005.
9. Except where the parties agree otherwise, other non-price terms and conditions upon which Vodafone currently supplies the MTAS to H3GA are to continue to apply. This interim determination shall take effect as and from 14 July 2005, and will remain in force until:
- i. the date a final determination comes into effect; or
 - ii. this interim determination is revoked.
10. Notwithstanding anything to the contrary in this interim determination, this interim determination has no effect to the extent that this interim determination:
- i. would result in an acquisition of property within the meaning of section 152EB of the Act; and
 - ii. would not be valid, apart from this clause or section 152EB of the Act, because a particular person has not been sufficiently compensated.



Graeme Samuel
Chairman



Ed Willett
Commissioner

DATED: 14 July 2005

ATTACHMENT C

ACCESS DISPUTE BETWEEN HUTCHISON TELECOMMUNICATIONS (AUSTRALIA) LIMITED (ACCESS SEEKER)

AND

VODAFONE NETWORK PTY LIMITED (ACCESS PROVIDER)

DOMESTIC MOBILE TERMINATING ACCESS SERVICE (MTAS)

Access Dispute Notified under Subsection 152CM(1) of the *Trade Practices Act 1974*
on 24 February 2005

Interim Determination under Section 152CPA

Background

1. On 24 February 2005, the Australian Competition and Consumer Commission (the Commission) received written notification (the notification) from Hutchison Telecommunications (Australia) Limited (HTAL) that an access dispute exists in relation to the supply by Vodafone Network Pty Limited (Vodafone) to HTAL of the Domestic Mobile Terminating Access Service (the MTAS). HTAL's notification was provided to the Commission pursuant to subsection 152CM(1) of the *Trade Practices Act 1974* (the Act).
2. The MTAS is an access service for the carriage of voice calls from a point of interconnection, or potential point of interconnection, to a B-Party (the end-user to whom a telephone call is made) directly connected to the access provider's digital mobile network.¹
3. After holding a public inquiry, the Commission declared the MTAS pursuant to subsection 152AL(3) of the Act. A copy of the declaration was published in the Commonwealth of Australia Gazette No. GN 28, 14 July 2004.
4. In its notification, HTAL refers to the notification to the Commission submitted by its subsidiary, Hutchison 3G Australia Pty Ltd (H3GA), in relation to a similar access dispute with Vodafone.
5. That notification by H3GA states that H3GA and Vodafone entered into an access agreement for the supply of the MTAS by Vodafone to H3GA. This agreement was most recently amended on 15 July 2004. The current agreement for Vodafone to supply the MTAS to H3GA at a price of 21 cpm expired on 31 December 2004. The parties have not reached an agreement on terms and conditions for access to the MTAS for the period beginning 1 January 2005.
6. In HTAL's notification, it states that 'Vodafone has always supplied the MTAS to HTAL for the same price it charged H3GA'. HTAL wrote to Vodafone to provide it with an additional opportunity to offer a lower price for supply of the MTAS to HTAL on 18 January 2005. Vodafone did not respond to this letter. On this basis, HTAL concluded that Vodafone will not offer to supply the MTAS to HTAL during 2005 for a price significantly below the price that it offered to H3GA. Therefore,

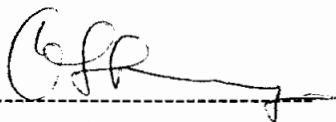
¹ ACCC, Mobile Services Review Mobile Terminating Access MTAS, Final Decision, (the MTAS Final Report) June 2004, p. 239.

HTAL argued, HTAL and Vodafone are unable to agree on the price that Vodafone charges to supply the MTAS to HTAL.

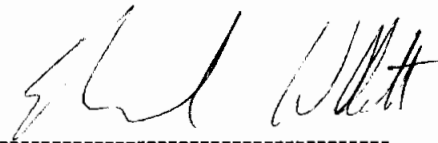
7. The Commission has formed the view that the requirements of subsection 152CM(1) of the Act are satisfied. That is:
 - Vodafone is a carrier;
 - Vodafone supplies the declared MTAS;
 - Vodafone has an obligation under subsection 152AR(3) of the Act to supply the MTAS to HTAL; and
 - The parties are unable to agree on the price at which Vodafone should supply the MTAS to HTAL from 1 January 2005 onwards.
8. Pursuant to subsection 152CPA(1) of the Act, this instrument is an interim determination relating to the terms and conditions of access upon which the MTAS is to be provided by Vodafone to HTAL.

Interim Determination

9. Except where the parties agree otherwise, the charge payable by HTAL to Vodafone for the MTAS is to be:
 - 18 cents per minute (cpm) for the period from 14 July 2005 until 31 December 2005; and
 - 15 cpm for the period from 1 January 2006 to the period ending 12 months after 14 July 2005.
10. Except where the parties agree otherwise, other non-price terms and conditions upon which Vodafone currently supplies the MTAS to HTAL are to continue to apply. This interim determination shall take effect as and from [the commencement date], and will remain in force until:
 - i. the date a final determination comes into effect; or
 - ii. this interim determination is revoked.
11. Notwithstanding anything to the contrary in this interim determination, this interim determination has no effect to the extent that this interim determination:
 - i. would result in an acquisition of property within the meaning of section 152EB of the Act; and
 - ii. would not be valid, apart from this clause or section 152EB of the Act, because a particular person has not been sufficiently compensated.



Graeme Samuel
Chairman



Ed Willett
Commissioner

DATED: 19 July 2005