



## **ACCC Review of the Declaration of the Domestic Mobile Terminating Access Service**

July 04, 2013

### **Australian Competition and Consumer Commission**

Communications Industry Sector  
23 Marcus Clarke Street  
Canberra ACT 2601

Via email: [MTASDeclarationinquiry@accc.gov.au](mailto:MTASDeclarationinquiry@accc.gov.au)

Re: Submission on Mobile Terminating Access Service

### **Introduction**

The Competitive Carriers' Coalition (CCC) welcomes the Australian Competition and Consumer Commission's (ACCC) inquiry into the declared domestic mobile terminating access service (MTAS). The CCC also welcomes the opportunity to comment on the discussion paper *Review of the declaration of the Domestic Mobile Terminating Access Service*, dated 27 May 2013.

The CCC has considered the following questions raised in the review:

1. Should the MTAS declaration be extended, varied, revoked or allowed to expire?
2. Should SMS be declared?
3. Should voice services terminating on LTIE networks be declared?
4. How does the NBN affect the MTAS?
5. How long should an MTAS declaration apply?

In relation to the central question of the inquiry "Should the MTAS declaration be extended, varied, revoked or expired?" the CCC believes that the MTAS declaration should be continued.

The CCC would also like to take the opportunity to contest recent suggestions from the Commission that reductions in regulated termination charges have been passed through to retail prices.



## Issues for the MTAS declaration 2013

### 4.1 Should mobile voice terminating continue to be declared?

Yes, the CCC understands that the market conditions that warranted the extension of the MTAS declaration in 2009 are still present, and revoking the MTAS declaration would significantly affect competition in the market to the detriment of consumer outcomes.

1. *Does each MNO continue to have a monopoly over the termination of voice calls on its network?*

The CCC believes that mobile network operators (MNOs) have the same monopoly powers over access to customers on their network that they did in 2009. Despite an increase in infrastructure sharing, an MNO still has the ability to grant and restrict access to its own customers on that network. Telstra, as indicated in the graphs published in the discussion paper, still has a significantly larger market share, and this gap has been increased since 2009.

2. *Are there substitutes for the MTAS in the relevant markets?*

The CCC does not consider that VoIP and messaging are currently adequate substitutes for MTAS. While VoIP and messaging are seeing increased traffic, it is not believed that the current services are reliable or substantial substitutes for fixed to mobile, or mobile to mobile calls.

3. *Are the markets defined in the 2009 Declaration Inquiry still appropriate for the MTAS? What other markets, if any, are appropriate?*

The CCC understands that the 2009 declaration was amended to include technology neutrality and believes that this would cover LTE services. However the CCC acknowledges that there is some confusion around the inclusion of the LTE and suggests that the ACCC needs to clarify this point.

4. *How has the MTAS declaration impacted competition in each of the specific MTAS markets, as well as the two downstream markets identified in the 2009 Declaration Inquiry? Are there other developments or changes in these markets that make them more competitive than in 2009?*

The MTAS declaration has ensured that a base level of transparency in the market has led to a more level playing field with respect to MTAS changes. The market has seen other changes, such as an increase of retail market share by Telstra, that have meant that the MTAS continues to be necessary to control the ability of Telstra to capitalise on its increased market integration.

5. *How does the take-up of VoIP affect each of the markets identified in the 2009 Declaration Inquiry?*

VoIP services have not sufficiently impacted on the MTAS markets, at this stage, to be of material concern.



6. *Is the continuing declaration of the MTAS necessary to ensure any-to-any connectivity? How would any-to-any connectivity be achieved in the absence of declaration?*

Yes. Any-to-any connectivity would be open to price increases across networks that would preference particular service providers and therefore decreasing competition.

7. *What has been the level and type of investment in mobile infrastructure since 2009?*

The CCC is not in a position to comment on this.

8. *How does declaration of the MTAS affect investment in 2G, 3G and LTE networks?*

MNOs would have more equitable access to investment in the market with the MTAS declaration, as it provides a level of security and predictability for ongoing costs and expected revenues. This effect would be most ubiquitous if it were applied across all technologies.

9. *What network sharing is currently taking place and/or planned? How does the declaration of the MTAS promote the efficient use of, and investment in, infrastructure that is part of a shared network arrangement?*

The MTAS declaration does promote the efficient use of, and investment in, infrastructure by promoting more transparent and efficient pricing models.

10. *What would be the impact on competition in each of the markets identified in the 2009 Declaration Inquiry if the MTAS declaration were revoked or left to expire?*

Network operators would have the opportunity to exercise their bottleneck power over access to its customers: this would negatively affect the competitiveness of the market. Integrated network operators, such as Telstra, would have the ability to price internal network calls at a lower price to external network calls. This would mean other non-integrated providers would be at a competitive disadvantage, and any-to-any connectivity would be compromised.

11. *Would the MTAS prices be above the cost of production or access to the MTAS not be provided on reasonable terms, in the absence of declaration?*

Yes. In a de-regulated MTAS market there would be no incentive for MNOs to provide lower rates, as other providers would not follow this behaviour and the MNOs' income would be unilaterally decreased. On the other hand if an MNO increased its rates, other operators would be inclined to do the same so that the incoming and outgoing MTAS rates were balanced, thus not incurring an income loss to that provider.

### **Should voice services terminating on LTE networks be declared?**

Yes, the view of the CCC is that MTAS declarations should be technology neutral to ensure adequate competition across current and emerging technologies used for an essential service. To reiterate a previous point – the CCC understands that the current inclusion of LTE networks



in the existing definition of “technology neutral” is the subject of some confusion. The CCC would suggest that this needs to be clarified further.

- 12. Should the MTAS declaration be varied to expressly apply to voice calls terminating on an LTE mobile network?*

The MTAS declaration should be technology neutral, which would include LTIE networks, rather than just amended to include the LTE. This will ensure competition is maintained in all emerging markets, the most immediately relevant being the LTE market.

### **How does the NBN affect the MTAS?**

The NBN does not affect the MTAS in the CCC’s view. Any impact from the NBN would not be evident until the majority of households in Australia were connected to the NBN, which is unlikely to occur before the MTAS declaration is due for reconsideration in 2019.

- 13. What impact will voice calls originating on an IP based network, such as the NBN, and terminating on a mobile network, have on the wholesale MTAS market?*

Voice calls originating from an IP based network such as VoIP or NBN would have any material effect on whether the MTAS should be declared.

- 14. Should the current MTAS service description be varied to expressly apply to fixed to mobile calls originating on an IP network, such as the NBN, and terminating on a mobile network?*

The MTAS should be explicitly amended, as mentioned above, to apply to all current and future technologies that require a terminating access cost.

### **How long should an MTAS declaration apply?**

- 15. What is an appropriate duration for a declared MTAS?*

The view of the CCC is that a 5 year service declaration will provide certainty in the market. However we acknowledge that five years is too long for the pricing determination and that a 5 year declaration process would be out of line with a two year pricing determination process. The CCC does not necessarily think this is a problem but does not have a strong view on the matter.