



16 February 2024

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Australian Competition and  
Consumer Commission

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**By email:** [telco.regulation@accc.gov.au](mailto:telco.regulation@accc.gov.au)

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**Re: ACCC Draft Report – Public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service**

Sinch Australia Pty Ltd and its related bodies corporate (“together, “**Sinch**”) welcome the opportunity to respond to the Australian Competition and Consumer Commission (ACCC) Draft Report (“**Draft Report**”) for the public inquiry into the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service (“**Inquiry**”). Due to the nature of Sinch’s services in Australia, this response will focus solely on Section 5.3 of the Draft Report, “Application-to-Person (A2P) SMS Termination”.

**1. Who is Sinch?**

Sinch is a leading CPaaS provider of messaging, voice and email services to enterprises around the globe, powering over 600 billion engagements per year. Sinch’s Australian operations handle millions of messages per day to help businesses of all sizes optimise how they communicate and engage with their customers.

In the context of the Inquiry, Sinch operates separate businesses in Australia that can be defined as aggregator and A2P SMS provider respectively. As such, Sinch’s response will focus on issues that relate to both the aggregator and / or the A2P SMS

provider markets, being the Wholesale market for A2P SMS services<sup>1</sup> and the Retail market for A2P SMS Services<sup>2</sup>.

## **2. The reliance on MNOs for supply of downstream SMS to aggregators and A2P Service Providers will limit the LTIE, regardless of whether A2P SMS services are declared**

Sinch does not believe that declaration of A2P SMS termination services will enhance the LTIE or the aggregator / A2P SMS provider market more generally. As the ACCC discusses in the Draft Report, MNOs reach commercial agreements with each other for the termination of SMS on their respective networks<sup>3</sup>. In addition, the ACCC notes that *"SMS aggregators negotiate commercial agreements with the mobile network operators and aggregate supply to downstream providers of A2P SMS services"*<sup>4</sup>. However, MNOs are not required to pass through any MTAS declared rates to the wholesale or retail A2P SMS market and downstream providers such as Sinch are not otherwise entitled to obtain the benefit of a MTAS declaration. To exacerbate this, not only is Sinch precluded from accessing the MTAS declared rate, but the nature of the relationship between MNOs and the reliance that Sinch has on MNOs means that bargaining power between the parties is, by its nature, unequal. Whilst Sinch confirms that it has been able to reach commercial agreement with MNOs and has been able to negotiate for the supply of SMS, Sinch also notes that as a result of the aggregator and A2P supplier business model, Sinch is vulnerable to the commercial conditions and pricing that MNOs will agree to. Sinch's experience is that despite being one of the larger A2P SMS providers and aggregators in Australia, Sinch's ability to negotiate with MNOs on pricing is limited due to the commercial realities such as that MNOs and other telcos are answerable to shareholders. In addition, MNOs often prefer to negotiate long-term commercial arrangements with Sinch, including for stable pricing which ensures a steady and predictable return. Sinch's larger customers often prefer to reflect this model in their own agreements with Sinch, as it provides established pricing and stability for them.

To this end, Sinch respectfully disagrees with the ACCC's position that *"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"*<sup>5</sup>. Rather, Sinch's view is that declaration of A2P SMS termination services is unlikely to promote competition in the wholesale or retail market for A2P SMS Services because even if the MNOs are required to pass on lower MTAS rates to

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<sup>1</sup> [Draft Report, Section 5.3.1.](#)

<sup>2</sup> [Draft Report, Section 5.3.1.](#)

<sup>3</sup> [Draft Report, Section 5.3.1.](#) "Wholesale markets for A2P SMS termination services" pp 67-69.

[Draft Report, Section 5.3.1.](#) "Overview".

<sup>5</sup> [Draft Report, Section 5.3.1.](#) p 71.

each other, there is (1) no guarantee that providers such as Sinch will be able to negotiate lower prices for SMS services or pass these lower prices on to their customers and (2) the preference for long-term commercial deals by both MNOs and the resulting long-term deals with downstream customers means that pricing is less likely to fluctuate and decrease in the aggregator and A2P SMS provider space.

Sinch believes that when weighed against re-regulation, the current deregulated environment facilitates a fair and predictable market and a level playing field for aggregators, A2P SMS providers and MNOs alike. Indeed, as outlined below in section 4 of this submission, Sinch has seen a steady decrease in the price of A2P SMS in the retail space following A2P SMS being deregulated by the ACCC in 2019. In Sinch's view, this is proof that re-regulation is not necessary to promote LTIE. Sinch welcomes stability and predictability, which will help ensure that the CPaaS market remains accessible for its customers.

### **3. If the MTAS service description is altered to include A2P SMS termination services, the declaration should have a ceiling price which ensures market stability and facilitates investment in key areas**

As noted above, the commercial realities of the wholesale and retail market for A2P SMS Services means that declaration is unlikely to have an immediate effect on the LTIE. However, Sinch is concerned that if the MTAS was re-regulated, MNOs such as Pivotal who "predominately supply off-net services in competition with the national mobile network operators<sup>6</sup>" would have the ability to immediately offer low cost SMS to aggregators and A2P SMS providers who may not be equipped to operate responsibly in the Australian market. For example, aggregators who are based outside of Australia and offer services to the Australian market are less likely to have measures in place to comply with the Australian Scam Code. Low cost is also likely to increase the number of scammers using A2P SMS in Australia, as cost barriers to send scams will be less of a deterrent than in other markets. Sinch submits that if the ACCC chooses to regulate the termination of A2P SMS at a low rate as per the previous regulation, market changes could result in an increase in scam SMS in Australia and ultimately detrimentally impact Australian consumers. Similarly, Sinch concurs with both TPG and Telstra that declaration may negatively impact on the ability of providers (including aggregators and A2P SMS providers) to invest in infrastructure and measures which will protect consumers from scams and SPAM messages<sup>7</sup>. Sinch considers that at a time when SMS scams in Australia are causing substantial loss to

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<sup>6</sup> [Draft Report, Section 5.3.1, p 64.](#)

<sup>7</sup> [TPG Telecom, 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 7; Telstra, 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 22](#)

Australians<sup>8</sup>, it is vital for downstream providers to have certainty of costs and market stability so that they can invest in long-term solutions.

#### **4. The current, deregulated mobile termination access service in both the wholesale market for A2P SMS services and the retail market for A2P SMS Services is competitive**

As a global aggregator and A2P SMS provider, Sinch is privy to SMS rates in almost every country in the world. Sinch notes that it has conducted analysis of global SMS rates and determined that Australia is amongst the cheapest 5% of A2P SMS wholesale markets in the world. Sinch also notes that contrary to the ACCC's suspicion that retail A2P SMS retail rates have remained stable<sup>9</sup>, Sinch has identified steady price reductions in retail rates for its customers over the past 4 years (see figure 1 below). Sinch submits that this price decrease in downstream markets demonstrates healthy competition and reiterates its view that if market stability is not maintained, then Australia will continue to be a target for scammers due to low barriers to entry market and the reduced ability of MNOs and downstream providers to invest in long-term, sustainable anti-scam measures. Sinch also asserts that given the price point of the Australian A2P SMS and the fact that retail prices have been reducing during the period of deregulation, competition in the Australian A2P SMS market is healthy and declaration of the MTAS in the A2P SMS space is not required.

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<sup>8</sup> [ACCC, Targeting scams: Report of the ACCC on scams activity 2022, ACCC, Australian Government, April 2023](#), p. 6.

<sup>9</sup> [Draft Report, Section 5.3.1](#), p 71.

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#### 4. Concluding remarks

Whilst it has been asserted that MNOs will have no incentive to deny access to SMS aggregators or impose unreasonable terms and conditions of access<sup>10</sup>, the fact remains that aggregators and A2P SMS Service providers who are not able to access the interconnect rates are at the mercy of MNOs. In addition, Sinch believes that stability of the market is vital to ensure that all aggregators and A2P SMS providers have the resources, local knowledge and ability to operate in the Australian market with limited risk to Australian consumers. It is for these reasons that Sinch submits if MTAS re-declaration were to occur, then it should be set at a ceiling which reflects the realistic commercial environment, whilst taking into account the needs of aggregators' and A2P SMS Providers to invest in scam reduction measures and maintain consistency of quality in the market.

Sinch would be happy to discuss this response in further detail.

Please contact [REDACTED] [REDACTED]

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<sup>10</sup> [TPG Telecom, 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](#), p7.