

Australian Competition and Consumer Commission  
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8 December 2017

Dear Commission,

**Submission on *Communications Sector Market Study Draft Report***

Message4U Pty Ltd ('M4U') thanks you for the opportunity to make this submission in response to the *Communications Sector Market Study Draft Report* ('Draft Report').

***About M4U***

M4U provides SMS messaging solutions for businesses, referred to as business to person ('B2P') messaging. Typical usage cases include:

- enabling medical and other personal service providers to remind clients of upcoming appointments, and receive attendance confirmations by return;
- allowing enterprises to communicate rostering and shift information to their workforce;
- communicating public service announcements to large populations;
- communicating one-time passwords or PINs;
- managing and enabling opt-in marketing campaigns.

***SMS Platform***

SMS is the technology of choice for services such as those cited above because of its ubiquity, and therefore its ability to support a universal service, and that will remain the case indefinitely.

In the case of person-to-person ('P2P') messaging, it is true that there is a high degree of substitutability between SMS and over-the-top ('OTT') messaging services. But individuals are generally well aware of which of their associates can be reached via which OTT service. They know that one family member may be reliably contacted via iMessage, another through Facebook Messenger, another friend using WhatsApp, and so on. Where contacts are relatively small in number and are personally known to each other, it is feasible to employ multiple incompatible OTT messaging services.

In the case of messaging services such as those that M4U provides ('B2P'):

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- There are large populations of (potential) message recipients.
- The OTT messaging service/s (if any) that an intended recipient uses cannot be assumed.
- Even if it was known that an intended recipient had previously used a particular OTT messaging service, it cannot be assumed that they have not ceased to use it, in favour of an alternative.
- It cannot be assumed that an intended recipient has a 'smart phone'.
- It cannot be assumed that an intended recipient with a 'smart phone' has access to data service.
- The only 'given' is that any person with a mobile phone service can receive and send SMS text messages.

Because SMS is the unique common denominator, the 'lingua franca' for messaging to and from mobile handsets, there is little or no substitutability between SMS and OTT messaging services in this context. SMS is a unique and essential input into universal B2P messaging services and, as the Commission has previously noted, each of the three mobile network operators is a monopoly provider of SMS termination services with respect to its network. There is nothing to suggest that this will change in any relevant timeframe.

### ***Regulation of SMS termination services***

In relation to B2P messaging services, the existing declaration, and consequent regulation, of SMS termination services has:

- mitigated the natural monopoly characteristics of the services;
- reduced pricing of wholesale termination services;
- increased competition at retail level, resulting in both reduced pricing and enhanced service features;
- encouraged investment in improved B2P messaging systems and product development;
- maximised the availability of universal mobile messaging solutions, to the benefit of business, community organisations, governments, hospitals, employers and their customers, clients, citizens and employees –

all of which are reflected in a significant increase in the number of B2P SMS messages since regulation took effect. Discontinuing regulation would restore the previous natural monopolies, with predictable adverse effects. While it is true that, in such circumstances:

- P2P users would have the option of making even more use of 'free' OTT messaging services; and
- the existence of that option would likely moderate P2P SMS pricing –

in the context of B2P messaging services, network operators would once again be monopoly providers of an essential and non-substitutable input.

### ***Draft Report***

While SMS may be perceived as a legacy technology in the P2P context, it is state-of-the-art, best practice in the context of delivering universal B2P services.

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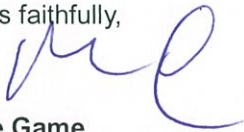
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M4U appreciates that the Draft Report does not express a view as to whether deregulation of SMS termination is or will be appropriate. However, in dealing with the issue, the Draft Report refers only to the P2P context, where future deregulation might be considered more likely. It should be acknowledged, at least, that the B2P context may raise significantly different issues, and is not necessarily competitively constrained by OTT messaging services.

**Conclusion**

M4U trusts that these comments will inform the final report.

Yours faithfully,



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