



Declaration of the domestic mobile terminating access service

Twilio Comments

April 2024

Twilio welcomes the opportunity to provide further feedback in response to the ACCC's draft report on the declaration of the domestic transmission capacity service, fixed line services and domestic mobile terminating access service ("the Draft Report").

This supplementary response addresses some of the comments in submissions that were published on 27 February 2024. We are focusing on those areas where we hope to provide clarity and where published submissions are either factually inaccurate or lack evidentiary support.

- **Retail market for A2P SMS services.**
- **Market failure is not the test for declaration.**
- **Pricing is not an effective method to tackle scam.**
- **Non-MNO's contribute to the fight against scam.**

Retail market for A2P SMS services

Twilio is a multichannel cloud communications provider that offers a flexible and scalable platform to power a wide range of communication channels, including voice, SMS, chat, video, and email. We serve large and small companies across Australia to manage a variety of needs such as discounts, reminders or multi-factor authentication.

Despite the many various ways businesses can engage to meet their client needs Twilio sees that the overwhelming majority of traffic is via SMS. This proportion goes up further for some use cases that are time sensitive, require a universal approach or require higher levels of consumer trust, such as one-time passcodes. Given this, we do not agree with the submissions made to the ACCC which suggested the market was significantly reshaping away from SMS to other substitutes.

As noted by the ACCC this is a key question when considering the viability of the current market. It is Twilio's view that other available channels for communications, specifically OTT messaging service do not currently provide sufficient constraint on the ability of the mobile network operators (MNOs) to exploit monopoly power in what is a bottleneck service.

The basis for declaration is not market failure

A number of submissions suggested there is not currently market failure or no evidence of 'loss of consumer welfare' and this meant that there was not a reason for the ACCC to declare SMS termination services.

However, Twilio notes the standard for declaration set out in the *Competition and Consumer Act 2010* is not market failure or detriment to consumers, but if 'the Commission is satisfied that the making of the declaration will promote the long-term interests of end-users'. This clause is proactive for the Commission and not reactive. It is not intended to rectify issues, such as market failure, after they have happened.

A vibrant communications market with innovative challengers providing unique and adaptable products is in the best interests of end users. Declaration of SMS termination service is likely to promote competition. It is for this reason that Twilio encourages the Commission to declare SMS termination rates to ensure that the market can benefit the end-users.

Pricing is not an effective method to tackle scam

Some MNOs claimed that declaration would undermine the efforts across government and industry to reduce scams on the Australian telephone network. Twilio does not support this assertion and we do not believe that there has been sufficient evidence that this is the case.

It is in the interest of all players in the industry that scam is reduced to ensure that communications products remain trusted. Failing this, we could see a world where A2P SMS becomes obsolete and the communications traffic that used to transverse it moves to privatised, walled garden networks.

However, effective scam management needs to be whole-of-industry and nuanced to the technological approach that is being tackled. Twilio emphasises that a significant risk to end-users and competition in the market is dominant carriers' use of blunt tools, such as pricing or blocking. Actions such as this impedes the required whole-of-industry approach as well as the development of more effective and nuanced technology solutions.

Non-MNO industry players have limited incentive to combat scams

Finally, Twilio emphatically rejects the suggestion that non-MNO industry players have limited incentive to combat scams, and that our dominant incentive is to transit as much traffic as possible, to the benefit of our bottom line.

In fact, the contrary is true. Twilio shares in the vision of a healthy and thriving communications ecosystem that delivers a positive experience for consumers engaging with A2P SMS. A healthy communications ecosystem benefits everyone, from carriers, to regulators, businesses to consumers.

Many of the problems that currently plague the ecosystem stem from bad actors that negatively impact consumers, this chips away at trust in communications via SMS. Twilio's business success depends on trust. It is for this reason that Twilio has made significant investments in tackling scams to better protect end users and disrupt the actions of bad actors.

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Further, Twilio, as a CSP, has significant legal and regulatory obligations, including in relation to compliance with the Reducing Scam Calls and SMS Code (which all carriers and CSPs are required to comply with). We take those obligations extremely seriously.

Conclusion

Twilio believes that the declaration of SMS termination would promote the long-term interests of end users and we support the ACCC's position in the December 2023 draft report. Twilio thanks the ACCC for this additional and valuable opportunity to contribute and looks forward to continuing to engage in constructive dialogue on this important subject.