

Mobile Terminating Access Service

Final access determination

Draft decision

May 2015

Response by iiNet

1. Introduction

The Australian Competition and Consumer Commission (**ACCC**) is currently undertaking a public inquiry into making a final access determination (**FAD**) for the Mobile Terminating Access Service (**MTAS**).

In August 2014 the ACCC released a discussion paper entitled: *Mobile terminating access service, Final access determination discussion paper (the Discussion Paper)*. In November 2014 the ACCC published its position on pricing methodology. The ACCC has recently released a draft decision on MTAS pricing (**the Draft Decision**). The ACCC has invited comments on the draft decision from interested parties. The non price terms for the MTAS FAD are being considered separately.

iiNet welcomes the opportunity of responding to the Draft Decision.

2. iiNet's response to the Draft Decision

As identified in iiNet's response to the Discussion Paper, iiNet believes that the fundamental question that the ACCC needs to address is:

How much should the MTAS price be reduced by and when?

The answer to this question provided by the Draft Decision is that the MTAS price should be reduced from 3.6 cents to 1.61 cents from 1 January 2016.

As pointed out in iiNet's response to the Discussion Paper, iiNet believes that the ACCC's approach to pricing MTAS in the past has been conservative. In particular:

- When the ACCC first set indicative prices for MTAS in 2004, the starting price was the lowest price at which the service was then commercially supplied and the end price was the upper end of the range of reasonable TSLRIC+ estimates.¹
- The ACCC's MTAS indicative prices in 2007 were informed by the output of the WIK cost model. However, although that cost model suggested a price in the range of 6.6cpm to 6.1cpm, the ACCC set the price at 9cpm.²
- The ACCC retained the price of 9cpm when it made its indicative prices in 2009 despite developments that saw Mobile Network Operators (**MNOs**) provide MTAS over 3G networks at less cost.³
- When the ACCC made the first MTAS FAD in 2011, the ACCC identified 3.6cpm as the efficient cost of providing MTAS at that time. However, the ACCC adopted a conservative price path and the price of 3.6cpm did not apply until 1 January 2014.⁴

¹ Trade Practices Act 1974 Determination under section 152AQA - 30 June 2004, annexure 1 - Principles relating to the price of access to the Domestic Mobile Terminating Access Service.

² See section 3.4 of ACCC - Domestic Mobile Terminating Access Service Pricing Principles Determination and indicative prices for the period 1 January 2009 to 31 December 2011.

³ *ibid* at pp18,19.

iiNet believes that the approach in the Draft Decision continues this conservative approach. In particular iiNet maintains the view expressed in its response to the Discussion Paper that:

- using a pure LRIC methodology for international benchmarking; and
- applying the price reduction immediately,

would better promote the long term interests of end users (**LTIE**) than the approach in the Draft Decision. That said, iiNet supports the following aspects of the Draft Decision:

- **Using an international benchmarking approach.** iiNet agrees that an approach based on international benchmarking is the most appropriate under the current circumstances as any cost model that the ACCC develops would be immediately out of date. Subject to the comment above regarding the use of pure LRIC methodology, iiNet believes that the international benchmarking study undertaken by WIK Consult⁵ that the ACCC has based the Draft Decision on is thorough and robust.
- **Monitoring the development of VoLTE services in Australia and seeking information from the mobile network operators to inform the ACCC whether to review the MTAS prices during the term of the FAD.**⁶ Given that termination costs are likely to drastically reduce even further through the use of this technology, it is appropriate that the ACCC should continue to monitor the situation.
- **Setting prices for SMS termination.** iiNet believes that the use of a conversion factor as recommended by WIK Consult along with allowing recovery of SMS specific costs is an appropriate approach to adopt and setting prices in this way is sensible, pragmatic and consistent with the LTIE.
- **Not distinguishing between fixed to mobile (FTM) and mobile to mobile (MTM) calls.** iiNet agrees that from a mobile network operator's perspective, MTM and FTM termination services are essentially the same.⁷ Therefore, both MTM and FTM termination rates should be set at the same price using the same methodology.

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⁴ Inquiry to make a final access determination for the Domestic Mobile Terminating Access Service (MTAS) Access Determination Explanatory Statement 7 December 2011, at pp13,14.

⁵ Benchmarks for the Cost of the Mobile Termination Access Service in Australia, WIK Consult, 15 April 2015.

⁶ Draft Decision, at section 3.2.3.

⁷ Draft Decision, at section 3.1.2.