



Domestic Mobile Terminating Access Service

Submission to the ACCC



27 July 2011



About ACCAN

The Australian Communications Consumer Action Network (ACCAN) is the peak body that represents all consumers on communications issues including telecommunications, broadband and emerging new services. ACCAN provides a strong unified voice to industry and government as consumers work towards availability, accessibility and affordability of communications services for all Australians.

Consumers need ACCAN to promote better consumer protection outcomes ensuring speedy responses to complaints and issues. ACCAN aims to empower consumers so that they are well informed and can make good choices about products and services. As a peak body, ACCAN will activate its broad and diverse membership base to campaign to get a better deal for all communications consumers.

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Introduction

One of the most significant costs to make up the final retail price that consumers pay for calls to mobile phones is the mobile terminating access service (MTAS). The ACCC describes the MTAS as “a technology neutral wholesale input used by providers of voice calls from fixed line, mobile and IP networks, in order to complete voice calls to end users directly connected to digital mobile networks”. The MTAS is the way in which the ACCC ensures that mobile networks are fairly compensated for the costs involved in connecting our calls to one another on mobile networks.

However, if this building block of the final retail price we pay is wrong, then the market can fail in a number of ways. A customer could pay too much because decreases in the regulated price aren't “passed through” to them. Investment and innovation can be skewed because the price signals to network operators and new entrants are wrong. ACCAN is of the view that both of these problems are occurring in the Australian market.

Firstly, the retail price to call mobiles from fixed-line services is too high and is propping up profits for fixed lines operators like Telstra instead of reflecting an efficient price. ACCAN's analysis finds that regional consumers and older Australians are most likely to pay the costs for uncompetitive fixed-to-mobile call costs. ACCAN agrees with the ACCC that this market failure has to be addressed and we support a new regulatory approach to achieve this.

Secondly, international experience suggests that lower MTAS rates may encourage more efficient network investment, as well as support innovation in emerging services because lower MTAS can remove indirect subsidies to bigger, more established networks.

And lastly, ACCAN believes that discussion around fair interconnection pricing in the mobile market must be expanded to include the prohibitively high costs of calling 1800, 13 and 1300 numbers, also known as Free and Local Rate Numbers (FLRNs). Our Fair Calls for All Campaign (www.accan.org.au/numberwoman) has highlighted massive community concern about this issue.

This submission recommends that the ACCC:

- **mandate a “pass through” of all past and any future reductions in the fixed-to-mobile MTAS**
- **adopt aggressive reductions in the MTAS with a glide path to facilitate a staged implementation**
- **investigate the factors contributing to the prohibitively high prices for calls to FLRNs originated on a mobile service and the competitive dynamics in the FLRN retail market**

Response to Discussion Paper

1. Reducing fixed-to-mobile prices

ACCAN agrees with the ACCC's long held view that retail prices are too high for phone calls that originate on a fixed line service and terminate on a mobile service. Millions of customers are paying too much. Nearly three in five people with a home phone will call a mobile number at least weekly, including 20 per cent who do so daily.¹ And customers without a fixed line substitute (largely regional consumers and older Australians) suffer significant consumer detriment in the form of extremely high prices that are well above efficient, competitive levels. ACCAN strongly supports a new regulatory approach to address the monopoly pricing that is occurring in the fixed-to-mobile market.

1.1 Evidence we're paying too much

The ACCC's *Discussion Paper* explains that while retail prices for other calls have declined in line with (or well beyond) reductions in wholesale costs, retail prices for fixed-to-mobile calls have declined at only a small proportion of the reduction in wholesale costs.² Specifically the ACCC states:

"...the MTAS rate declined nearly five fold in real terms since 1997, but the average retail price for FTM call fell by only 52.9%"

Put simply, while fixed line operators (such as Telstra) have enjoyed rapidly reducing costs, its customers have not. This has contributed to huge profit margins on calls from Telstra fixed line to mobile services, when compared to local and national calls.³

The ACCC also points out that Telstra's recent move to per-minute billing from 30 second blocks exacerbates consumer expenditure. See Appendix 1 for Telstra's current fixed-line pricing.

Some industry participants argue that consumers aren't really experiencing these losses because higher fixed-to-mobile call costs are cross-subsided by lower mobile-to-mobile costs. ACCAN does not accept this position. Below we outline the extensive ongoing reliance on fixed line services amongst the community, largely concentrated on subsets of vulnerable consumers. This analysis proves the case that regulating to pass through fixed-to-mobile wholesale charges is in the long term interests of consumers.

1.2 Who's loses out from high fixed-to-mobile call costs

According to research commissioned by the Australian Communications and Media Authority, 9% of Australians *only* have a fixed-line (do not have a mobile phone).⁴ The

¹ ACMA, 2011, *Numbering: Implications of research into consumer issues Consultation Paper 4*, p88.

² ACCC, 2011, *Domestic Mobile Terminating Access Service (MTAS) Discussion Paper*, p5

³ *ibid*

propensity to rely solely on fixed-lines increases with age, with 25% of the older population (65+) having a home phone but no mobile.⁵ Even when older Australians do own both a fixed-line and a mobile (72% of 65+ have both), research confirms that the proportion of calls made from a mobile phone decreases with age.⁶

Despite declining numbers of fixed-line services, ACMA commissioned research confirms that segments of the Australian community remain very much attached to their service. Thirty four per cent of Australians still consider a fixed-line to be their main communications device.⁷ Unsurprisingly, the fixed-line is far more important to those living in regional Australia, with 43 per cent nominating it as their main form of communication, compared with 29 per cent of those in capital cities.⁸

For the purposes of the ACCC review of MTAS it is necessary to consider not just who relies on fixed-lines, but for what purpose. Again, research confirms that while in general mobile phones are most frequently used to call mobile numbers, calls from a fixed line to a mobile number are relatively common. Nearly three in five (58 per cent) of those with a fixed-line service will call a mobile number at least weekly, including 20 per cent who do so daily.⁹ There is relatively little difference by age or household income in the frequency calls are made from a home phone, although those with a household income of less than \$25,000 per annum are slightly less likely to be calling a mobile number on a weekly or more frequent basis.¹⁰

ACMA's research also sheds some light on the downstream impacts of inefficient pricing of the fixed-to-mobile market. It found high awareness of high mobile call costs from fixed-lines. Among households with fixed-lines and mobiles (households with fixed-line substitutes), the research found that one in two people report a tendency to avoid making mobile calls from fixed-lines.¹¹ Among those households with only a fixed-line, two-thirds (68 per cent) try to avoid calling mobile phones from their home phones because those calls can be expensive.¹² Altogether this research suggests there is an inefficient substitution effect on households with fixed and mobile services. It also confirms that high fixed to mobile call costs curtails the ability of households to stay connected where geographic and age barriers limit the capacity to substitute fixed-lines for mobiles.

1.3 Regulating for increased consumer welfare

It is unacceptable that regulated decreases in the MTAS have been retained by providers in the form of profits instead of lower fixed-to-mobile prices to consumers. The ACCC's *Discussion Paper* proposes (pages 9-10) a number of different mechanisms by which pass through could be achieved. ACCAN agrees with the ACCC's interpretation that mobile-to-mobile and fixed-to-mobile MTAS voice calls are sufficiently different to warrant separate consideration and we believe that a more direct form of price regulation is now required in

⁴ ACMA, 2011, *Numbering: Implications of research into consumer issues Consultation Paper 4*, p44

⁵ *Ibid* p61

⁶ *Ibid*, p64

⁷ *Ibid*, p72

⁸ *Ibid*, p74

⁹ *Ibid*, p88

¹⁰ *Ibid*, p89

¹¹ *Ibid*, p104

¹² *Ibid*, p105



the fixed-to-mobile market. ACCAN sees merit in adopting a “retail-minus” regulatory approach that could ensure that not just future price decreases but also those decreases that have taken place to date, are finally passed through to customers in the form of significantly lower prices.

Recommendation:

- **That the ACCC mandate a “pass through” of all past and any future reductions in the fixed-to-mobile MTAS**

2. Reducing MTAS prices

The MTAS is currently set at nine cents per minute. We note that the ACCC has not raised concerns that recent reductions in MTAS were not passed-through to consumers in the form of lower retail prices for calls from mobiles to other mobiles. We further note that the ACCC seems confident that the competitive environment among mobile network operators is strong. ACCAN does however caution that overly complex pricing in the mobile market can make it very difficult to know what is really happening to actual call costs. So-called capped plans with “included value” are nearly impossible to decipher effective call rates. We would be interested to see any ACCC analysis on underlying call costs as evidence to establish a baseline against which to monitor MTAS reductions in the future.

2.1 Evidence we’re paying too much

ACCAN has observed that internationally regulators have been moving swiftly to considerably reduce MTAS rates outlining the significant consumer benefit in doing so. In April 2010, the UK’s OfCom announced it is proposing to lower termination rates from £0.043 per minute to £0.005 a minute by 2015.¹³ In May 2009, the European Commission announced reforms to reduce the level of mobile termination rates across the EU to between 1.5 and 3 eurocents by 2012.¹⁴

We also note that the PSTN charge – that is the interconnection charge for calls on a fixed service – is currently 0.9 cents per minute. Internationally there is a trend to bring MTAS rates down to rates equivalent to traditional fixed network interconnection charges.

2.2 Who’s loses out from high MTAS costs

In forming its proposal to radically alter the termination rates, Ofcom noted the rise of VoIP services and Mobile Virtual Network Operators (MVNOs) alongside the national mobile networks means there is more choice for consumers. It also noted that the way consumers use mobile devices has changed, observing that data traffic in the mobile network increased by 200% over the last year.¹⁵ In coming to its decision, the European Commission observed that higher mobile termination rates are an indirect subsidy that benefits large mobile

¹³ <http://media.ofcom.org.uk/2010/04/01/lower-mobile-termination-rates-to-benefit-uk-consumers/>

¹⁴ <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/222>

¹⁵ See reference 12



operators to the detriment of smaller mobile operators, funnelling money away from investments in upgrades to high-speed internet networks.¹⁶

To the extent that lower MTAS will facilitate more efficient investment in networks and foster innovative new services, ACCAN believes that all consumers stand to benefit from significantly lower MTAS rates.

2.3 Regulating for increased consumer welfare

ACCAN is agnostic on the best methodology to deliver a regulated mobile-to-mobile MTAS. We do note however that were it possible to move to a “Bill and Keep” regulatory approach, consumers may benefit from lower operator costs.

ACCAN recommends that the ACCC adopt an aggressive stance in reducing the MTAS. We believe that levels more akin to the sorts of average PSTN rates that sit around 0.95 cents per minute may be appropriate. We would support a glide path that avoided a regulatory shock but ensured regulatory certainty towards significantly lower MTAS.

Recommendation:

- **That the ACCC adopt aggressive reductions in the MTAS with a glide path to facilitate a staged implementation**

3. Reducing mobile-to-FLRN prices

ACCAN has on numerous occasions raised concerns about the high costs for mobile calls to 13, 1300 and 1800 numbers, also known as Free and Local-Rate Numbers (FLRNs).¹⁷ We are currently highlighting this issue through our Fair Calls for All campaign which can be found at www.accan.org.au/numberwoman. These calls are unusual in that both the calling party and the receiving party pay for the call.

Interconnection charges applied to mobile calls to Free and Local-Rate Numbers (FLRNs) are not currently regulated by the ACCC as they are not included as part of any declared service. However, evidence suggests that consumers are paying too much for these calls and that the current market structure is inhibiting the development of competitive services. ACCAN is requesting the ACCC to commence an investigation into the interconnections arrangements for FLRNs, with a view to declaring the services as a regulated service under s152 of the *Competition and Consumer Act 2010*.

3.1 Evidence we're paying too much

Consumers are charged anywhere between 22c to \$1.78 per minute plus flagfall to make a mobile to FLRN call.¹⁸ While ACCAN is not privy to all arrangements businesses have with

¹⁶ See reference 13

¹⁷ See ACCAN, ACROSS, AFCCRA, September 2010 *The Cost of a Free Call: Accessing 1800, and 13/1300 services from mobile phones*; ACCAN, December 2010, *Structure of Australia's telephone numbering plan*; ACCAN, *Fair Calls For All*, May 2011; ACCAN, July 2011, *Numbering: Consultation paper 4*.

¹⁸ *Fair Calls For All*, p 4.



their telecommunications provider, our preliminary investigations suggest that FLRN business users pay more to receive mobile than local or STD landline calls to their FLRN.¹⁹ It is possible that the majority of the call cost is in fact being recovered by the receiving party call charges, just as it is for landline to FLRN calls.

Charges for mobile to FLRN calls were justifiable in the 1990s, when the cost incurred by the Mobile Network Operator in delivering a mobile call was higher. ACCAN believes that the charges applied to mobile calls to FLRNs have not been reduced appropriately as the cost of transferring all mobile calls has decreased dramatically.

3.2 Who loses out from high mobile-to-FLRN

All consumers who own a mobile phone are affected by high mobile call rates to FLRNs but the charges have a major impact on consumers who only have a mobile phone, currently 14% of the overall population and rapidly rising.²⁰

Vulnerable consumers experience particular detriment because of per minute call rates from mobile phones to FLRNs. ACCAN's recent submission to the ACMA reviewed the impact of these charges on 11 vulnerable consumer groups.²¹ We concluded that each of these vulnerable communities required access to a variety of different FLRN services and that the current industry approach of free-rating a handful of numbers for mobile callers is in no way addressing the overall problem.

We contend that the market is not working in the best interests of businesses or consumers. 1800, 1300 and 13 numbers are intended to allow businesses or organisations to subsidise call costs for their service users, providing an incentive to call. With more consumers relying on mobile communications this incentive is becoming increasingly non-existent. An organisation cannot offer a genuine free-to-call number even if it wants to.

A freephone or flat-fee number range that works from mobile phones is technically possible, as evidenced by the numerous international examples. Currently the USA, the Netherlands, Germany, Italy and Spain all have a free-to-call number range that works from mobile and fixed-line phones and Ofcom has indicated that they will regulate to ensure that the UK's '0800' range will be free to call from a mobile phone.²²

3.1 Regulating for increased consumer welfare

There are strong indications that the FLRN retail market has some anti-competitive traits. The FLRN retail market is overwhelmingly dominated by Telstra. However, there are a number of smaller service providers, such as Alltel, Arrow or 1300Australia who sell FLRN services but they generally rely on Telstra's network to do so. ACCAN is aware that Optus offers FLRN services but has become less active in this area over recent years. There has been little to no innovation in this area of the telecommunications market and a growing mismatch between the services offered in the FLRN retail market and the services

¹⁹ *Numbering: Consultation paper 4*, pp 26-30.

²⁰ ACMA, 2010, *Take up and use of voice services by Australian consumers*, p 2.

²¹ *Numbering: Consultation paper 4*, pp 10-26.

²² Ofcom, 2010, *Simplifying Non-Geographic Numbers*, pp 348-362.



demanded by users of these services. Organisations have told ACCAN that they would like a genuine free-to-call service. For example, Helen Campbell, Executive Director of the Women's Legal Service NSW says,

“At Women’s Legal Services NSW we provide free legal advice by telephone to women throughout NSW. We need to provide services that are genuinely accessible, and without an affordable phone service for women who only have a mobile phone we are not reaching our most disadvantaged clients.”

In light of this and increasing consumer detriment documented above, we believe the ACCC should examine other mobile interconnection issues beyond those covered by the MTAS determination. Specifically, ACCAN believes the following questions should be investigated by the ACCC in order to determine if a formal regulatory charge should be applied to the FLRN market:

- What terminating charges are levied on mobile networks by Telstra and Optus when a call is originated on a mobile and terminated on the FLRN network? How does this charge reflect the cost of carrying the call?
- How are the prices that are charged to the consumer originating the mobile call to the FLRN proportional to the amount being paid by the call terminating party?

We note that the FLRN number range is currently being reviewed by the ACMA through its Numbering Plan Review, however the specific issue of interconnection rates is not under review. Any work undertaken by the ACCC to ascertain interconnection charges would complement the ACMA's review.

Recommendation:

- **That the ACCC investigate the factors contributing to the prohibitively high prices for calls to FLRNs originated on a mobile service and the competitive dynamics in the FLRN retail market.**

Appendix 1

Costs that apply to Telstra fixed-line services. Costs are current as at 27 July 2011, sourced directly from the Telstra website.²³

	HomeLine Budget	HomeLine Complete	HomeLine Plus	HomeLine Reach	HomeLine Ultimate
Per month charge	\$22.95	\$29.95	\$31.95	\$49.90	\$89.90
Call connection fee	45c				
STD calls	25c/min	20c/min	20c/min	\$1 untimed	Included
Calls to Australian mobiles	36c/min				
Capped calls to Telstra mobiles	15c/min for first 20 minutes*	10c/min for first 20 minutes*	10c/min for first 20 minutes	\$1.00/call	50c/call
Capped calls to non-Telstra mobiles	N/A			\$2.00/call	\$1.50/call

*Only available 7pm to midnight.

²³ <http://www.telstra.com.au/home-phone/plans-rates-connections/index.htm>