



Australian Competition & Consumer Commission  
Email: [commsmarketstudy@acc.gov.au](mailto:commsmarketstudy@acc.gov.au)

October 14, 2016

Dear Sir/Madam,

Viber Media S.à r.l. would like to provide our views to "Competition in evolving communications markets" (the Issue Paper) that is released on September 5, 2016. We appreciate the opportunity to submit our opinions to the extensive, well-thought Issue Paper.

Viber is a communication app which provides free text, photo messages, stickers, video sharing, doodles, group chats, games, public chats and also a VoIP service. It is provided on the open internet just like other content, services or applications are provided to end users over the public internet, such as web-based content. Viber also offers service Viber Out that allows Viber users to call any phone number at low rates. Viber is globally used because of its attractiveness to consumer, and Australia represents an important market for Viber.

We appreciate that ACCC conducting market study to make findings on current and future communication markets and identifying options for appropriate regulatory focus. Our main concern is the potential extension of same regulations as traditional telecommunications to our quite different internet based services. If VoIP services are regulated as a telephone company, we concern that the consumers may lose an opportunity to choose lower-cost innovative services. We think telcos and OTT services are complementary to each other and offer complimentary service for consumers.

In this regards, we respectfully offers our comments below for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Shintaro Hirato". The signature is fluid and cursive.

Shintaro Hirato  
General Counsel  
Viber Media, S.à r.l.

## Viber's view on the Issue Paper

In the ACCC Issue Paper, we will focus on providing our views on questions 1, 7, 9, 11, and 35 which seem relevant to us:

### Question 1 and 9:

- 1. How are consumer preferences changing and how is this impacting the communications sector?**
- 9. Does increased collaboration between ISPs and OTT service providers create any concerns for competition and consumer choice? If so, please describe.**

We would like to introduce you two recent key consulting studies. The first is from Wik Consulting. Entitled **"OTT Streaming in Germany"**, it shows that music and video streaming services account for a continuously increasing part of media consumption in Germany. According to this study, consumers are thirst for increased data volume, and in order to use good-quality streaming services as well as other OTT services, consumers are willing to pay premiums to their Internet Service Providers. Please read more here: <http://www.wik.org/index.php?id=822&L=1>

This point of data volume driving telecom revenues is underlined in **"Next-Generation Communications Services and the Level Playing Field - what is to be done?"** by Brian Williamson. This report clearly shows that end users pay for access in order to access content and applications. Richer applications increase end user willingness to pay for network coverage, speed and data capacity. This study also explores about free-rider issue about which telecom firms often complain. Williamson concludes that next generation communications do not free-ride on access; rather, access and applications are complements. Read more here: <http://www.cci-net.org/wp-content/uploads/2016/06/Next-Gen-Comm-Level-Playing-Field.pdf>

The third is the **"Study on future trends and business models in communication services"** commissioned by the European Commission. It clearly shows that the competitive impact of web-based communications providers such as Viber, Skype and WhatsApp on telecom operators is limited. Completed by the Dutch consultancies Ecorys and TNO and released in October, 2016, the study undermines the telecom sector's case for a dramatic deregulation to bring about a "level playing field." Here is link to the study:

<http://bookshop.europa.eu/en/study-on-future-trends-and-business-models-in-communication-services-pbKK0216551/?CatalogCategoryID=CXoKABst5TsAAAEjepEY4e5L>

We think telcos and OTT services are complementary to each other and offer complimentary service for consumers.



Even though any person can download an app, Viber can only be used by users that are part of the Viber community. In principle, a user can only connect with a user that is also part of this community. Viber Out represents an exception. It allows contacting persons that are not members of this community but who have a fixed or a mobile number. (Ideally, Viber prefers that users ask their contact to download the app too, but for convenience, offer users this complementary option if their contact does not have the app.).

This is not an “any-to any” service and Viber users do not expect such universal coverage. Quite to the contrary, they enjoy being members of a closed community. This does not prevent them from being members of several other communities (e.g. WhatsApp, snapchat, Instagram etc.) according to their age and interests. A few clicks on the smartphone is enough to download a messaging application. Most smartphones hold several different messaging apps and consumers use different ones for different purposes, switch between them

Competition is fierce between OTT services. Viber is a startup company, and even after obtained by Rakuten in 2014, it is run separately and still remains a start-up size, with a total of around only 300 employees. Potential extension of same regulations as traditional telecommunications would make additional cost for small players. We hope that any regulations should be characterized by openness towards innovation by competition and minimal barriers and a favorable environment even for small players and new entrants.

The consulting studies cited above give an overview of the highly competitive OTT market - and how the OTT players such as Viber are complementing traditional telecommunications services.

#### **Question 7:**

**7. Are there currently any barriers to entry for OTT service providers in reaching end-users, for example, in accessing devices, operating systems or network elements? Is this expected to change in the next five years? If so, how?**

Viber does not have major issues in reaching end-users currently, but the danger exists if Internet Access Provider hinder the delivery of OTT services. Some countries already do block down of messaging apps. Often, countries artificially decrease bandwidth to make our service appear unreliable.

In many regions, too, demands to store data locally represent a real obstacle. Iran, Russia, China and Vietnam have made unfortunate recent moves in this direction. This forced data localization represents a dangerous threat to the Internet. It leads to additional state surveillance, industrial protectionism and a fragmented web – as well as driving up OTT costs, making them often uneconomical.

Going forward, we fear that regulators will create constraints for OTT services by imposing obligations like quality and availability of network and services, or emergency call routing. VoIP service, like Viber is a service provided over the Internet. It is provided on the open internet just like other content, services or applications are provided to end users over the public internet, such as web-based content. It can only be used by users that have access to the internet. Internet Access Provider is responsible for the quality of the service and in control of the distribution of the VoIP service. VoIP service cannot operate independently and this would technically make it difficult for Viber to provide end-to-end quality of service.

VoIP service is also dependent on telecoms operators: Viber Out does not operate over the public switched telephone network (“PSTN”); the call termination service is rendered by a telecoms operator. Viber directs voice data packets to an existing number, through the user’s telecoms operator.

Unlike traditional fixed or wireless telecommunications services, it is not location/infrastructure based. Viber's software simply codes and compresses the voice of the user into data packets, and sends them over to the receiver, where those packets are decompressed and can be translated back to audio. This will make VoIP services technically difficult to, for example, provide access to emergency services and limit that it is substitute traditional telephone services.

#### **Question11 & 35:**

**11. What does the emergence of OTT services mean for the current economic regulatory framework for the communications sector?**

**35. How are network operators and RSPs responding to the growth in OTT activity? Are there any alternative business models developing between network operators, RSPs and OTT service providers, or their advertisers? If so, what is the nature of new business models and how do they address the impact of OTT on traditional business models?**

The paper “Study on future trends and business models in communication services” investigated several non-EU countries regarding the market situation and regulatory framework. According to the study, a trend towards deregulation appeared to be present in the telecom sector. The study investigated competitive pressures telecom operators experienced, but it found no impact of online communication services on fixed telecom.

Yet, we are concerned about any possibility of the potential extension of telephone regulations to Internet based messaging service. Unlike an MVNO, Viber is operating on totally different technology; it is web based, with no traditional telephony equipment. Viber is a software company, and that software enables the voice file exchanging process which simulates a call. The inapplicability and

irrelevance of many of the rules that apply to mobile operators, demonstrates how far removed Viber is from traditional communication companies. If Viber is forced to abide by these rules, this would require Viber to establish a whole new infrastructure and ultimately change the nature of its business. If OTT services are regulated as a traditional telecommunications company, the economics of continuing low-cost service could vanish. It will impose constraints requiring additional investments on a player that does not have unlimited resources. This could possibly lead it to revise its services offering and therefore reduce the service offer available to consumers. Approximately 70% of Viber's costs and personnel are R&D related focusing on constantly improving quality and security of the services as well as better product offerings. Margins for Viber Out sales are thin since the majority of the revenues goes back to the traditional telephone companies who complete the connection. Viber buys these connections from the telcos at market prices.

For a company of Viber's small size, if the same type of requirements as telcos are imposed, the costs would be impossible to justify and we would continue to offer low-cost telephony only in jurisdictions that allow it to flourish. Consumers would lose. The new high barriers to entry would lock out startups.

Innovation has mainly taken place in the online space. Competition is fierce and the barriers to entry are low. Some online service providers have taken great risks in trying to provide innovative solutions at a small cost for the consumer. Consumer demand is growing. And telecommunications operators themselves begin to provide their own online services. The risk of imposing disproportionate constraints on OTT service providers such as Viber is that the market is likely to concentrate and leave behind only the major players. It seems important that the regulation should promote competition, sustain innovation and allow consumers the ability to choose amongst a diverse range of service providers.

The "OTT Streaming in Germany" study, as well as "Next-Generation Communications Services and the Level Playing Field - what is to be done?" show that consumers are demanding additional data volumes for their Internet services. Consumers are willing to pay for improved data access and speeds in order to use data-rich services. OTTs such as Viber drive this demand. They can only be used by users that have access to the internet. In that respect, we support the net neutrality principle and hope an appropriate regulatory focus by ACCC will continue to promote this win-win, innovative OTT phenomenon.