



TELSTRA CORPORATION LIMITED

Telstra submission to the ACCC public inquiry into the declaration of the Domestic Mobile Terminating Access Service

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[CIC begins] = information not to be released without a confidentiality undertaking

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EXECUTIVE SUMMARY

The Australian mobiles market has evolved significantly since the ACCC last conducted a declaration inquiry into the Mobile Terminating Access Service (**MTAS**), which concluded in 2014. Most significantly, traditional voice and SMS services have faced substantial competition from Over-the-Top (**OTT**) services, reflecting global trends in the way that consumers use their mobile phones. There has been a sustained increase in the number of OTT messages sent globally, with nine times more OTT messages now sent than SMS. This explosion of OTT services has been facilitated by Australia becoming a more digitally connected society with more Australians accessing the internet on a daily basis and a significant increase in smartphone ownership. This has resulted in significant benefits for consumers as Mobile Network Operators (**MNOs**) have responded to increased competition. As the ACCC has noted, unlimited SMS and voice calls are now widely available in the retail market, largely in response to OTT services which are generally supplied for no direct charge.

Telstra considers that OTT messaging and SMS are fully substitutable. This substitutability necessitates a reconsideration of the relevant markets for the purpose of the MTAS declaration inquiry. There is now one broader retail messaging market rather than separate retail SMS and OTT markets. As OTT messaging is not reliant on the SMS MTAS, the supply of messaging services in the retail messaging market is not reliant on the MTAS as an upstream input. As such, declaration of the SMS MTAS is no longer appropriate. Additionally, MNOs are prevented from leveraging any form of monopoly power by the high level of competition within the broader messaging market arising from multiple OTT service providers.

While retail OTT and Mobile-to-Mobile (**MTM**) voice services are substitutable, it is not yet clear whether the strength of that substitutability is sufficient to compete away an attempt by a mobile carrier to raise voice MTAS prices. It is also not yet clear whether there is a sufficient chain of substitution from Fixed-to-Mobile (**FTM**) calls to MTM calls to OTT calls that would prevent a mobile carrier from raising voice MTAS prices to carriers originating FTM calls. As a result the voice MTAS continues to be an essential upstream input into the supply of MTM and FTM calls. In this context, Telstra does not consider the case for removing the declaration of the voice MTAS can be fully established at this time.



01 INTRODUCTION

Telstra welcomes the opportunity to respond to the ACCC's public inquiry into the declaration of the Domestic Mobile Terminating Access Service.

The remainder of this submission is structured as follows:

- Section 2 discusses developments in the mobile market since the last declaration
- Section 3 sets out Telstra's view on the relevant markets for the MTAS
- Section 4 provides Telstra's position on whether declaration of the MTAS should continue
- Appendix A provides Telstra's response to the specific questions in the Discussion Paper



02 AUSTRALIA'S MOBILE LANDSCAPE HAS CONTINUED TO EVOLVE SINCE 2014

Australia's mobile market is highly competitive. Customers benefit from a wide choice of mobile service providers, vigorous price and non-price competition and product innovation. Between 2014 and 2017, the average price for mobile services decreased in real terms by 7.1 per cent.¹ In the same period, post-paid mobile data inclusions increased by an average of 41 per cent.² High levels of investment have led to improvements in technology and coverage and this is expected to continue. For example, Voice-over-LTE (**VoLTE**) and Voice-over-WiFi (**VoWiFi**) now enables customers to maintain a 4G experience during a call where standard coverage is not available.

Competition will continue to intensify as MNOs prepare to launch 5G. Telstra's rollout of 5G is underpinned by around \$5 billion in mobile network investment over the three years to 30 June 2019 to enhance the capacity, capability and reach of our network. Optus has announced its intention to launch 5G services by January 2019.³ There is also strong competition to supply mobile services in the wholesale market with each MNO competing to supply the approximately 60 Mobile Virtual Network Operators (**MVNOs**).⁴

The way consumers use their mobile services has also continued to evolve since the ACCC last reviewed the declaration of the MTAS. For example, in 2017, 81 per cent of adult Australians used a smartphone compared to 64 per cent in 2013.⁵ This is illustrated in Figure 1 below.

¹ ACCC, *Competition and Price Changes in Telecommunications Services in Australia 2016-17*, February 2018, p3. See <https://www.accc.gov.au/system/files/Competition%20and%20price%20changes%20in%20telecommunications%20services%20in%20Australia%202016-17.pdf>.

² ACCC, *Competition and Price Changes in Telecommunications Services in Australia 2016-17*, February 2018, p27. See <https://www.accc.gov.au/system/files/Competition%20and%20price%20changes%20in%20telecommunications%20services%20in%20Australia%202016-17.pdf>.

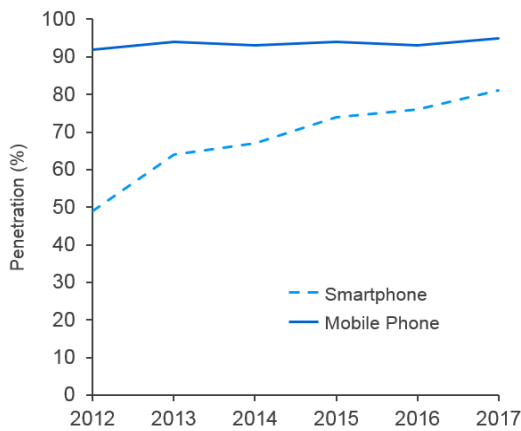
³ Optus, *Optus brings 5G to the Commonwealth Games through world first achievement*, April 2018. See <https://www.optus.com.au/about/media-centre/media-releases/2018/04/optus-brings-5g-to-the-commonwealth-games-through-world-first-achievement>.

⁴ ACCC, *Communications Sector Market Study: Final Report*, April 2018, p56. See https://www.accc.gov.au/system/files/Communications%20Sector%20Market%20Study%20Final%20Report%20April%202018_0.pdf.

⁵ Venture Consulting data commissioned by Telstra, 2018.

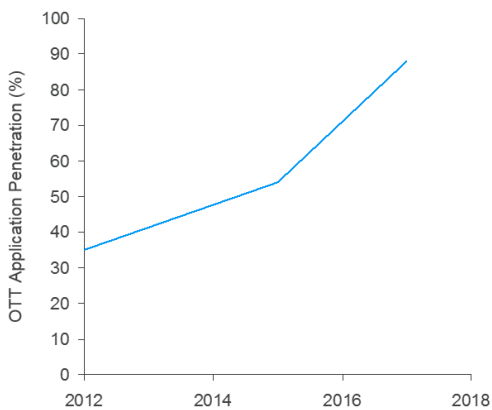


Figure 1: Smartphone and Mobile Penetration for Adult Australians⁶



One of the most significant changes since the last declaration inquiry is the increased prevalence of OTT applications. OTT application penetration for online Australians has increased from 35 per cent in 2012 to 88 per cent in 2018.⁷ As shown in Figure 2 below, OTT applications have been taken up by more online Australians each year since the last MTAS declaration process.

Figure 2: OTT Application Penetration for Online Australians⁸



Presently, 22 per cent of adult Australians use OTT services to make voice calls.⁹ Deloitte reports cited by the ACCC found that, as of mid 2016-17, 27 per cent of mobile consumers claimed they had not made a standard voice call in a given week.¹⁰

SMS usage has also fallen. [CIC begins] [CIC ends] In 2013, 38 percent more OTT messages than SMS were sent globally. In 2017, OTT messages made up 89 per cent of the total messages sent

⁶ Venture Consulting data commissioned by Telstra, 2018.

⁷ Venture Consulting data commissioned by Telstra, 2018.

⁸ Venture Consulting data commissioned by Telstra, 2018.

⁹ ACMA, *Annual Communications and Media Report, 2016-17, November 2017*, p17.

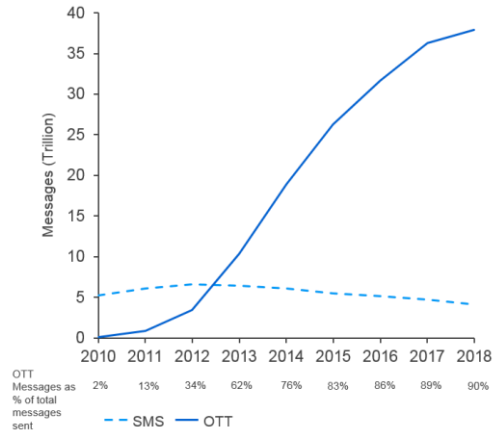
¹⁰ ACCC, *Communications Sector Market Study: Final Report*, April 2018, p41. See

https://www.accc.gov.au/system/files/Communications%20Sector%20Market%20Study%20Final%20Report%20April%202018_0.pdf.



worldwide. This has been accompanied by a decline in the number of SMSs being sent with only 4.1 trillion SMSs sent in 2017 compared to 6.4 trillion SMSs in 2013.¹¹

Figure 3: Number of SMS Messages and OTT Messages sent globally¹²



MNOs have responded to competition from OTT voice and messaging services (traditionally available to customers for no direct charge) by reducing the price of traditional voice services (FTM and MTM) and SMS. In relation to traditional voice services, the ACCC observed in its recent Communications Sector Market Study that “most mobile phone plans now offer unlimited local and national calls, with many also including international minutes or included calls to specific countries”.¹³ Similarly, in May 2018 unlimited SMS was available on 84 per cent of pre-paid and post-paid plans offered by MNOs at an average price of \$45 per month.¹⁴ This is a significant shift from 2014 when only 48 per cent of in market offers included unlimited SMS at an average price of \$63.¹⁵ Further, unlike 2014 where unlimited SMS was generally confined to higher value plans, unlimited SMS is now offered more widely by both MNOs and MVNOs. For example, a number of MVNOs currently offer unlimited SMS as part of mobile plans priced as low as \$10 per month.¹⁶

Telstra’s view is that the significant changes in the market since the last declaration inquiry necessitate a reconsideration of the relevant markets for the purpose of the MTAS declaration, which then influences consideration of whether the MTAS should continue to be declared. This is discussed in the following sections of this submission.

¹¹ Venture Consulting data commissioned by Telstra, 2018.

¹² Venture Consulting and Analysys Mason data commissioned by Telstra, 2018.

¹³ ACCC, *Communications Sector Market Study: Final Report*, April 2018, p31. See

https://www.accc.gov.au/system/files/Communications%20Sector%20Market%20Study%20Final%20Report%20April%202018_0.pdf.

¹⁴ Venture Consulting data commissioned by Telstra, 2018.

¹⁵ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC’s Final Decision*, June 2014, p43.

¹⁶ WhistleOut, *Australia’s cheapest unlimited phone plans*, July 2018. See

<https://www.whistleout.com.au/MobilePhones/Guides/which-aussie-telco-has-cheapest-unlimited-phone-plan-now>.



03 THE MARKETS RELEVANT TO MTAS HAVE EVOLVED

The wholesale voice termination defined by the ACCC in 2014 remains relevant to determining whether declaration of the voice MTAS would promote competition. However, in light of developments in the mobiles market since 2014, as described in Section 2, there is a need to redefine the relevant retail markets. Telstra's position is that there is now one market for retail voice services and one broader retail messaging (rather than SMS) market. Additionally, the wholesale market in which SMS termination services are supplied requires fresh consideration.

3.1. Messaging

Telstra considers that there continues to be two markets relevant to the consideration of SMS MTAS declaration. In the ACCC's Discussion Paper regarding the public inquiry into the declaration of the Domestic Mobile Terminating Access Service (**Discussion Paper**) the ACCC sets out its 2014 view that each MNO had a monopoly over the provision of SMS termination services on its network and that there were no effective substitutes for these services. However, the ACCC also acknowledges the significant competitive constraint placed on SMS providers by OTT messaging applications which may impact on the need for ongoing SMS regulation. Telstra agrees with the ACCC view regarding the high level of competition and substitutability between retail SMS and OTT messaging services. As a result, Telstra considers that the relevant retail market for SMS has effectively broadened to include alternative messaging applications such that there are now two relevant to markets to consider. These are:

- the retail messaging market; and
- the wholesale market for SMS and other message termination services.

This is set out in more detail below.

3.1.1. There is one retail messaging market

Telstra considers SMS and OTT messaging are effective retail substitutes for one another. This is consistent with the view of Danish regulator, DBA, and Italian regulator, AGCOM, who found SMS can be substituted by email and OTT services. The European Commission also expressed serious doubts that there are no substitutes for SMS.¹⁷

When it last considered declaration of the SMS MTAS in 2014, the ACCC found that SMS and OTT messaging were not substitutable on the basis of three main concerns:

1. insufficient levels of smartphone adoption, limiting access to OTT messaging;
2. the percentage of OTT messaging users was not sufficiently large; and
3. to send and receive OTT messages, users need to connect via the same platform.

This section sets out why these concerns are no longer relevant.

¹⁷ BEREC, *Report on OTT Services*, January 2016, p35.



Smartphone adoption has increased significantly

In 2014, the ACCC found that a significant percentage of the population did not have a smartphone, limiting the number of Australians who could substitute OTT messaging for SMS. As discussed in Section 2, adult Australians are now significantly more digitally connected than they were in 2013. Smartphone ownership reached 81 per cent of adult Australians in 2017, up from 64 per cent in 2013.¹⁸ Although there is still a small portion of the population who cannot substitute OTT messaging and SMS, a significant majority of the Australian population can now choose between an array of messaging platforms, and this has placed a significant pricing constraint on suppliers to the benefit of all users.

OTT messaging usage has increased

The ACCC previously cited ACMA data which indicated that in the six months to May 2013, only 35 per cent of Australians had used 'instant messaging' applications while 84 per cent had used SMS.¹⁹ From this the ACCC concluded that many of those with a smartphone were not using OTT messaging applications. A fundamental shift in consumer messaging behaviour has occurred since 2014. Consumers are now clearly preferring OTT messaging over SMS, with nine times more OTT messages than SMSs sent globally (see Figure 3).²⁰ Simultaneously, SMS volumes have started to decline. This clearly shows that OTT messaging and SMS are highly effective substitutes.²¹

Consumers are not inhibited by using multiple applications

The ACCC previously found that OTT messaging was not an effective substitute for SMS because OTT messaging requires consumers to use the same application to send and receive messages.²² While this largely remains the case, it is now common for Australians to use multiple OTT applications. In 2016, the average number of OTT applications per online Australian was 1.8, indicating that consumers do not find having to use multiple OTT applications to be a barrier to using OTT messaging in preference to SMS.²³ Further a number of OTT aggregator applications have entered the market, allowing consumers single-interface access to multiple messenger applications (see Figure 4).

¹⁸ Venture Consulting data commissioned by Telstra, 2018.

¹⁹ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p38.







²⁰ Venture Consulting and Analysys Mason data commissioned by Telstra, 2018.

²¹ Venture Consulting and Analysys Mason data commissioned by Telstra, 2018.

²² ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p37.

²³ Venture Consulting and Analysys Mason data commissioned by Telstra, 2018.

Figure 4: Top OTT Messenger Aggregators²⁴

	Release Year	Downloads	Included Messaging Services
 Trillian	2000	~41m	WhatsApp, Facebook Messenger, Skype, Slack, Telegram, WeChat & more
 All-In-One Messenger	2016	~200k	WhatsApp, Facebook Messenger, Skype, WeChat & more
 Franz	2016	~10k+	Google Talk, Facebook Messenger, Jabber, Yahoo Messenger & more
 Rambox	2016	~5k+	WhatsApp, Facebook Messenger, Slack, HipChat & more
 IM+	2009	~100k	Facebook Messenger, Telegram, Google Talk, Skype & more
 Disa Unified	2015	~36k	Facebook & Telegram

Telstra believes the changes that have taken place since the previous declaration inquiry, as outlined above, clearly indicate that SMS and OTT messaging applications are effective substitutes and should be considered as part of a single mobile messaging market.

3.1.2. Wholesale market for SMS and other message termination services

Telstra considers there to be two potential definitions for the market that wholesale SMS termination is supplied within. It could be argued that, as the ACCC identified in 2014, wholesale SMS termination services markets exist on each MNO's network as sending and receiving an SMS requires access to the termination services of the specific MNO which an individual consumer is subscribed to.²⁵ However, it could also be argued that competition between SMS and OTT messaging in the retail market, which is reflected in a broader market definition, flows through to the wholesale market, similarly creating a broader 'wholesale message termination market' in which OTT and SMS providers compete to supply message termination services.

In any event the strength of substitutability and competition in the retail messaging market has such a significant impact on the assessment as to whether declaration of the SMS MTAS is required (discussed in Section 4.2) that Telstra considers that it is unnecessary to determine which of these definitions of the market is correct.

3.2. Mobile voice

In 2014, the ACCC considered the markets relevant to the declaration of voice MTAS to be:

- the downstream market for retail mobile services;
- the downstream market for retail fixed voice services; and
- the markets for wholesale voice termination services on each MNO's network.²⁶

²⁴ Venture Consulting data commissioned by Telstra, 2018 using ACMA commissioned survey, June 2017.

²⁵ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p36.

²⁶ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p8.



Telstra considers the wholesale voice termination markets have been correctly identified by the ACCC and remain relevant. However, Telstra believes the downstream retail markets for mobile, fixed and OTT voice services have converged and should be considered together as one retail market for voice services.

3.2.1. The downstream market for voice services

Consistent with our views expressed in 2013, Telstra maintains that defining separate markets for the supply of downstream mobile retail services and fixed voice services is too narrow.²⁷ Instead, Telstra continues to consider that there is simply one market for retail voice services. For the purposes of the MTAS declaration, this market includes FTM, MTM and OTT voice calls.

Our reasons for adopting this position are set out in more detail below and largely reflect previous submissions made. However, the changes to the mobile market and consumer behaviour since the previous declaration inquiry have only strengthened the case for a single downstream market for retail voice services.

First, the MTAS service description (as it relates to voice services) reflects the fact that the cost of termination to access providers is the same regardless of the type of network the originating call comes from. That is, MTAS is a homogenous product. As such, separate consideration of MTM and FTM retail markets is unnecessary.

Second, changes in technology and consumer behaviour, notably the convergence between fixed, and mobile services and the availability of alternative communications such as VoIP and VoWiFi mean that defining separate, non-technology neutral markets is now outdated and no longer appropriate. In particular, Telstra considers that FTM and MTM calls are fully substitutable for one another. This view has strengthened since previous declaration inquiries as 95 per cent of adult Australians now own a mobile phone.²⁸ This very high rate of mobile phone ownership, combined with the move towards unlimited call inclusions in mobile plans, means the vast majority of Australians can easily choose to substitute a FTM call with an MTM call at little to no inconvenience or expense.

Third, we consider that OTT is a limited substitute for MTM and FTM calls. OTT voice services have placed significant competitive pressure on the supply of traditional voice services in the downstream retail market, which has been reflected in price and service offerings. As discussed in Section 2, Telstra agrees with the ACCC's observation that OTT has placed a competitive constraint on MTM calls with changes in mobile price and service offerings in large part a response to competition from OTT voice services which have traditionally been made available to consumers for no direct charge. Like traditional voice services, OTT voice services enable consumers to make real time voice calls with two way connectivity. The ACCC noted in its Discussion Paper that consumers can easily switch between MTM and OTT or VoIP calls such that they appear to place an effective competitive constraint on MNOs.²⁹

²⁷ Telstra, *Response to the Commission's Discussion Paper on the Review of the declaration of the Domestic Mobile Terminating Access Service*, July 2013, p10.

²⁸ Venture consulting data commissioned by Telstra, 2018; ACMA, *Annual Communications Report 2016-17*, November 2017, pp4, 16.

²⁹ ACCC, *Public inquiry into the declaration of the Domestic Mobile Terminating Access Service: Discussion Paper*, August 2018, p19.



However, the substitutability of OTT voice for traditional voice services is currently limited by differences in functionality and consumer behaviour.

OTT voice services tend to have limited functionality compared to traditional voice services. Generally, OTT voice services cannot dial traditional telephone numbers. This means consumers cannot substitute traditional voice with OTT voice when calling 1800, 1300, E000 or other such telephone number specific services. Further, businesses are not generally contactable via OTT voice services, relying instead on fixed or mobile services. Telstra believes there is not yet sufficiently large adoption of OTT services in order for them to be an effective substitute for traditional voice services. A 2017 ACMA survey found only 22 per cent of adult Australians prefer to use an OTT application to make a voice call, with most consumers preferring to make traditional voice calls.³⁰ In 2014, the ACCC determined that OTT messaging was not an effective substitute for SMS partly on the basis that only 35 per cent of adult Australians used OTT messaging.³¹ Given this position, Telstra considers that a greater percentage of the adult population may need to adopt OTT voice calling or OTT calling capability may need to be expanded before it can be considered to provide a fully effective substitute for traditional voice services.

That said, barriers to Australians adopting OTT voice services have decreased since 2014. As discussed in Section 2, Australia is now a more digitally connected society with increases in both the number of active online Australians and smartphone ownership. Data costs are falling. Wide scale adoption of OTT messaging services mean that consumers are already familiar with, and actively using, applications which offer OTT voice services. Nine of the top ten OTT applications used by Australians offer video and audio calling in addition to messaging services (see Figure 5). As such, it is foreseeable that OTT voice services may become a fully effective substitute for traditional voice services in the future.

Figure 5: Key features of the most commonly used OTT messenger applications³²

	Release	Instant Messaging (including multimedia)	Video Calling	Audio Calling
Facebook Messenger	2011	✓	✓	✓
Skype	2003	✓	✓	✓
WhatsApp	2009	✓	✓	✓
Apple iMessage	2011	✓	X	X
Snapchat	2011	✓	✓	✓
Viber	2010	✓	✓	✓
Line	2011	✓	✓	✓
WeChat	2011	✓	✓	✓
Google+ Hangout	2013	✓	✓	✓

Note: The above messenger applications were chosen using ACMA's 2016 top ten communication OTT apps

³⁰ ACCC, *Communications Sector Market Study: Final Report*, April 2018, p41. See https://www.accc.gov.au/system/files/Communications%20Sector%20Market%20Study%20Final%20Report%20April%202018_0.pdf.

³¹ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p38.

³² Venture Consulting data commissioned by Telstra, 2018. Telstra notes that although Apple iMessage does not have voice or video calling features, these features are available via FaceTime.



3.2.2. The markets for wholesale voice termination services on each MNO's network

Telstra agrees with the ACCC in its Discussion Paper that access to mobile voice termination services on each mobile network continues to remain in the exclusive control of the respective mobile service providers. Unlike the wholesale market for SMS termination, Telstra does not currently consider that competition from OTT providers is sufficient to warrant a broader wholesale market for voice termination. This is because that substitutability between OTT, MTM and FTM is currently limited due to the following key drivers:

- Businesses still rely on MTM or FTM voice services to communicate with customers, due to low adoption of OTT voice applications for business purposes.
- While OTT messaging applications offer greater functionality than SMS messaging driving greater substitution, MTM calling services are generally considered better than OTT calling. For instance, a number of OTT voice services cannot call 1800, 1300, E000 or other specific telephone number ranges.

This may, of course, change in the future with additional technological developments and as consumer behaviour continues to evolve. However, for the purposes of the current declaration inquiry, Telstra's position is that the ACCC should retain its existing approach of defining separate markets for mobile voice termination on each mobile network.



04 SHOULD THE MTAS CONTINUE TO BE DECLARED?

Telstra considers that ex-ante regulation is only likely to advance the LTIE where it deals with an enduring bottleneck. A bottleneck arises where a natural monopoly facility or service is an essential input into a vertically integrated production process without which a party cannot compete in the downstream market. Services need to pass two tests to be considered a bottleneck:

1. There must be no alternative input or process which can enable a party or their competitor to produce a specific final good or service at a comparable cost; and
2. There must be no substitutable final good or service which can be produced or supplied for a comparable cost without that upstream input.

Scenarios which fulfil both criteria may justify the application of ex-ante regulation. Where only one or neither test is passed, it cannot be said that competition is structurally inhibited and declaration will not promote the LTIE. In these instances there will be no economic basis for regulation.

This section considers whether the MTAS should continue to be declared, given Telstra's views on the relevant markets set out in Section 3 and based on the above tests.

4.1. Declaration of the SMS MTAS is no longer required

As there are numerous OTT applications which provide very strong retail substitutes for SMS services (as per the second economic test), wholesale SMS termination can be avoided by customers should an SMS MTAS provider attempt to raise prices or reduce quality. As such, Telstra's position is that there is no bottleneck to be addressed by declaring SMS MTAS and ongoing declaration of this service will not promote the LTIE.

As set out in Section 3, within the retail messaging market, OTT messaging provides a highly effective substitute to SMS. Like SMS, OTT messaging services allow consumers to send short messages in real time at a comparable cost to SMS. Unlike SMS, however, the receipt of an OTT message is not contingent on access to termination services on a particular MNO's mobile network. That is, a highly effective substitute for SMS is readily accessible in the retail messaging market, at a comparable price, without dependency on a particular upstream input.

The ACCC has acknowledged the competitive constraint placed on SMS by OTT applications, stating "*OTT messaging services (such as Facebook Messenger and WhatsApp) provide a competitive constraint on SMS messaging services*".³³ This is reflected in ongoing changes to the pricing of SMS since 2014. As discussed in Section 2, traditionally offered for no direct payment, OTT messaging services have directly influenced the significant decline in the price of SMS in the retail market.

The presence of fully effective substitutes in the retail messaging market means the second criteria to determine an economic bottleneck is not met and declaration of the SMS MTAS is not warranted.

³³ ACCC, *Communications Sector Market Study: Final Report*, April 2018, p42. See https://www.accc.gov.au/system/files/Communications%20Sector%20Market%20Study%20Final%20Report%20April%202018_0.pdf.



4.2. The case to remove the voice MTAS declaration is yet to be established

Telstra does not consider the case for removing the declaration of the voice MTAS can be fully established at this point in time. In regards to the first economic test, an MNO's voice MTAS is an essential input into the supply of FTM and MTM calls. Considering the second economic test, Telstra does not believe there is an effective retail substitute for these services yet.

As outlined in Section 3, we do consider MTM and FTM calls to be substitutable for one another, however both services are dependent on the wholesale input of the voice MTAS. Currently, retail OTT voice services only partially substitute for traditional voice services. Telstra considers that greater adoption of OTT voice services including by businesses or an expansion of OTT voice functionality is required in order to provide an effective substitute for traditional voice calling. Considering the significant growth in OTT message users since 2014, it is realistic that OTT voice services may become an effective substitute by the time the ACCC next considers the declaration of voice MTAS.

Given Telstra's position that the case for removing the declaration of the MTAS cannot yet be fully established, Telstra also considers that the current service description as it relates to voice remains appropriate. The current service description defines the voice MTAS on a technology neutral basis. Telstra considers that the service description remains fit for purpose, that the domestic voice MTAS is functioning well in its present form and there is therefore no need to change the service description. Being overly prescriptive by introducing a technology based service description to reflect potential ways to deliver a voice call to a mobile handset may have negative unintended consequences by limiting innovative service providers' access to the MTAS. As markets continue to develop, the ongoing need to declare the MTAS should continue to be reviewed to ensure regulation is fit for purpose.



APPENDIX: RESPONSE TO THE QUESTIONS RAISED IN THE DISCUSSION PAPER

Technological and industry developments since the last declaration inquiry	
Mobile voice calls	
1. What kind of voice calls require acquisition of termination access by the originating network? What are the technical characteristics of these calls?	Voice Calls from Fixed or Mobile carriers who want to supply end to end FTM or MTM calls need to connect to end customers who are directly connected to an MNO's network. The technical characteristics of "carrier grade" voice calls are based on standard definition voice parameters (typically G7.11A).
2. Who can provide the MTAS? Can non-mobile network operators who use mobile numbers to provide voice services terminate calls?	Only MNOs are able to provide the MTAS. This service does not refer to mobile numbers or fixed numbers. Rather it is the provision of call termination on a digital mobile network.
3. Is the current service description fit for purpose and does it adequately address the issue of monopoly power held by mobile network operators? Is the service description technologically neutral?	The current service description as it relates to voice is technology neutral and remains fit for purpose. Telstra considers that declaration of the voice MTAS remains in the LTIE given the enduring bottleneck that exists in the supply of FTM and MTM calls.
4. Do smaller network operators have difficulty securing commercial arrangements to terminate voice calls on behalf of their customers?	All smaller fixed networks who acquire and supply fixed terminating access are able to acquire MTAS using the same interconnect infrastructure and Points of Interconnect (Pol) that are used for fixed termination. There is a well-developed secondary market for smaller OTT players who have minimal infrastructure of their own through wholesale call termination services that are available from multiple carriers including Optus, AAPT, Vocus and Symbio. These are commercial services to supply intermediate interconnect services with the option of value adds such as number hosting.
5. What percentage of voice traffic is carried by: a. CS technology? b. VoLTE? c. VoWiFi?	[CIC begins] [CIC ends]



Short message services	
6. What kind of short message services require acquisition of termination access by the originating network?	All SMS that terminate on another MNO's network require terminating access by the originating network operator.
7. Is the current service description fit for purpose and does it adequately address the issue of monopoly power held by mobile network operators?	No. SMS should be removed from the service description as there is no case for the declaration of the SMS MTAS. OTT messaging services are an effective substitute for SMS and do not rely on the SMS MTAS. As such, the SMS MTAS is not a necessary input into the supply of services in the retail messaging market meaning the SMS MTAS is not a competitive bottleneck.
8. Does the current service description encourage the supply of innovative services?	<p>The strength of mobile competition in Australia encourages the supply of innovative services.</p> <p>The introduction of numerous OTT service providers into the retail messaging market since 2009 is an example of innovative services succeeding in the Australian marketplace (see Figure 5). Telstra considers that the success of such innovative services was underway prior to the declaration of SMS MTAS and is consistent with global trends. As the competitive retail messaging market continues to evolve, innovative services will benefit. Their success is not dependent on the declaration of the SMS MTAS.</p>
9. What percentage of SMS traffic is carried by each technology used to deliver it?	Telstra terminates 100% of mobile SMS traffic using the Telstra Mobile Radio Network.
Should mobile voice termination continue to be declared?	
10. Do network operators continue to have a monopoly over the termination of mobile voice calls on their respective networks?	Telstra considers that network operators do have a monopoly over the termination of mobile voice calls.
11. Do smaller networks have, or are they likely to have, sufficient market power to negotiate sound commercial outcomes without declaration?	<p>In light of Telstra's response to question four, Telstra considers that the current regulatory settings (as they relate to voice termination services) provide sufficient flexibility to enable smaller networks to reach commercial agreements.</p> <p>Telstra does not consider there is any need to alter the service description because there have been no market failures to warrant such an adjustment.</p>



12. Are there wholesale substitutes for mobile voice call termination?	As discussed in Section 3.2.2, Telstra does not consider there to be an effective wholesale substitute for mobile voice termination.
13. Are there retail substitutes for mobile voice call termination?	As discussed in Section 3.2.1, Telstra does not consider there to be an effective retail substitute for mobile voice termination at this time.
Should SMS termination continue to be declared?	
14. Do network operators continue to have a monopoly over the termination of SMS on their respective networks?	As discussed in Section 4.1, Telstra considers that MNOs do not have a monopoly over the termination of SMS services given the substitutability of retail OTT messaging services.
15. How are wholesale agreements for SMS termination currently structured?	[CIC begin] [CIC ends]
16. Are there wholesale substitutes for SMS termination?	Telstra does not consider there are wholesale substitutes for SMS termination. However, the wholesale market is constrained by strong competition in the retail messaging market.
17. Are there retail substitutes for SMS termination?	OTT messaging services are a highly effective retail substitute for SMS termination. Both services allow consumers to send a short message to a mobile users at an equivalent cost, generally no direct charge. This is discussed in more detail in the body of this submission.
Relevant Markets	
18. How has the MTAS declaration affected competition in each of the relevant markets since the 2014 Declaration?	Competition in the relevant markets has intensified since the 2014 Declaration as a result of strong competition from OTT services. Section 3 of this submission discusses the current level of competition in each of the relevant markets.
19. Are the markets identified in 2014 still relevant for the MTAS?	As discussed in Section 3, Telstra considers that the relevant wholesale voice market are the same as 2014. However, the retail voice and messaging market and the wholesale market in which SMS termination is supplied have all evolved since 2014.
20. Is the MTAS still an essential input to the MTM market? Is mobile voice termination still an essential input to FTM market?	As discussed in Section 4.2, a sufficient case for the removal of the MTAS declaration cannot be established at this point in time. The voice MTAS remains an essential input into the supply of MTM and FTM services. OTT voice services



<p>Will continued declaration of the MTAS promote competition in these markets?</p>	<p>currently provide a partial substitute for these traditional voice services, however, are not a fully effective substitute at present.</p>
<p>21. Do MNOs distinguish between termination of MTM SMS and A2P SMS termination? Why?</p>	<p>No. [CIC begins] [CIC ends]</p>
<p>22. Have reductions in the MTAS rate been passed on to consumers in the downstream markets?</p>	<p>Retail prices for SMS have decreased significantly since declaration of the MTAS was last considered. In 2014, 48 per cent pre and post-paid offers included unlimited SMS for an average price of \$63.³⁴ In 2018, MNOs offer unlimited SMS on 84 per cent of pre-paid and post-paid plans at an average price of \$45 per month.³⁵ Telstra considers that this decrease in pricing is a response to the competitive pressure from OTT messaging services which are traditionally available to customers at no direct charge.</p>
<p>How long should an MTAS declaration apply?</p>	
<p>23. What is an appropriate duration for a declared MTAS? Why?</p>	<p>Telstra believes that it is appropriate to declare the voice MTAS for a duration of five years. There will be significant developments across the telecommunications industry over the next five years driven most notably by the introduction of 5G. It will be most appropriate to reconsider the declaration of the voice MTAS again after these developments have taken place.</p>

³⁴ ACCC, *Domestic Mobile Terminating Access Service Declaration Inquiry: ACCC's Final Decision*, June 2014, p43.

³⁵ Venture Consulting data commissioned by Telstra, 2018.