



# Media Release

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## **Commerce Commission releases draft recommendation to regulate mobile termination prices**

The Commerce Commission today released its draft report recommending that the mobile termination prices should be regulated. The Commission also recommended that the undertakings submitted in lieu of regulation by Vodafone, Telecom and 2degrees should be rejected.

Mobile termination prices are the wholesale charges mobile phone companies charge for terminating calls or texts from other fixed or mobile networks. The Commission's preliminary finding, which is now subject to consultation, is that mobile termination charges are currently significantly above cost. The Commission's draft report recommends regulation of the wholesale rates that telecommunications companies charge each other, rather than the price that consumers directly pay for mobile services.

"Where wholesale services are priced at cost, consumers are expected to benefit from the resulting increase in competition, which in turn should lead to lower retail prices," said Commissioner Anita Mazzoleni.

"In the mobile market, these above cost wholesale mobile termination charges are therefore likely to limit the ability of a new entrant mobile phone company to compete," said Ms Mazzoleni.

"Overall, the Commission has estimated that the retail cost of calling a mobile from a fixed line could be significantly lower as a result of regulation. Additionally the Commission also expects that there would be benefits to consumers in the mobile market as a result of moving to wholesale charges that are cost-based," said Ms Mazzoleni.

“The Commission’s preliminary view, based on its overseas benchmarks, is that the initial cost-based termination rates in 2009 should be 7.2 cents per minute for mobile voice calls and 0.95 cents per text, with these rates reducing to 3.8 cents per minute for mobile voice calls and 0.5 cents per text by 2015. These benchmarked rates are significantly below current wholesale prices in New Zealand of 15 cents per minute for mobile voice calls, and also significantly below the prices recently offered by Telecom and Vodafone in their undertakings<sup>1</sup>, which simply continue with their current termination rates for voice,” Ms Mazzoleni said.

Submissions from interested parties are due by 28 July 2009. Telecom, Vodafone and 2degrees have been invited to submit revised undertakings at the same time as their submissions on the draft report.

In reaching its final recommendation, the Commission will take into account any advantages offered by revised undertakings, including the potential delivery of earlier reductions in mobile termination rates than would be available under regulation, and the avoidance of direct costs of regulation and the regulatory process. Implementation issues, such as glide paths<sup>2</sup> to achieve acceptable outcomes, would also be considered at that time.

The Commission’s investigation will result in a recommendation before the end of the year to the Minister for Communications and Information Technology on whether these services should be regulated or whether any of Vodafone, Telecom or 2degrees’ undertakings should be accepted.

The Commission’s draft report, the undertakings and the submissions received to date are all available on the Commission’s website [www.comcom.govt.nz](http://www.comcom.govt.nz) under Industry Regulation/Telecommunications/Investigations/Mobile Termination Access Services.

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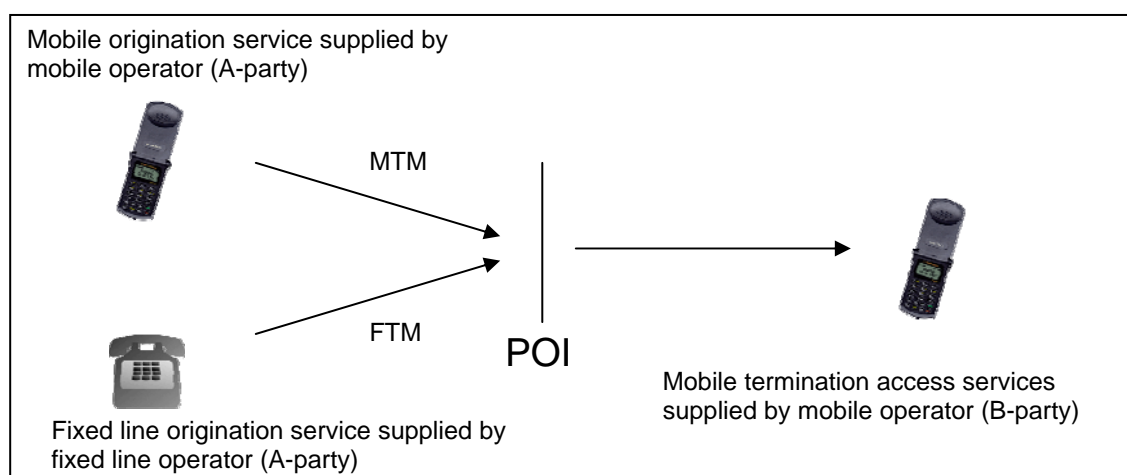
<sup>1</sup> See background section for the rates offered in Telecom and Vodafone’s undertakings.

<sup>2</sup> A glide path is a downward price trajectory over time towards a cost-based rate.

## Background

**MTAS Investigation.** On 6 November 2008 the Commerce Commission commenced an investigation under Schedule 3 of the Telecommunications Act 2001 (the Act) into mobile termination access services (MTAS). The MTAS incorporates mobile-to-mobile voice termination (MTM), fixed-to-mobile voice termination (FTM) and short-message service termination (SMS). The investigation is considering whether these services should become regulated services under Schedule 1 of the Act.

The MTAS relates to the portion of a call or SMS to a mobile phone, once it has been handed over to a mobile company to be transmitted to a mobile phone (as shown in the diagram below). The current MTAS investigation is only considering whether or not the MTAS should be regulated under the Act.



**Undertakings.** Under the Act, parties can submit undertakings, which are an offer of terms and conditions for the supply of a service as an alternative to regulation. Under the MTAS Investigation, the Commission has received five undertakings under Schedule 3A of the Act, from:

- a. Vodafone – three separate undertakings for the three components of MTAS;
- b. Telecom – one undertaking covering all three components of MTAS; and
- c. 2degrees (formerly NZ Communications) – one undertaking covering MTM, SMS, multi-media-message-services (MMS) and video telephony calls.

The table below sets out the rates offered in Vodafone’s and Telecom’s undertakings, which continue the voice rates under their current offers, and the benchmarked rates from the Commission’s draft report.

2degrees’ undertaking proposes ‘bill-and-keep’ pricing, where each network would **bill** their own customers for the calls that those customers make and the SMS’ that those customers send, and **keep** that revenue. This contrasts to a ‘cost-based pricing’ approach to mobile termination rates, where the sending network is required to pay the terminating network for each call or SMS that the sending network’s customers make or send to the terminating network’s customers.

More details about the undertakings, including when they would apply from, are available in the Commission’s draft report at paragraphs 85 to 91 and 93. More details about the Vodafone’s and Telecom’s current offers, including under Deeds for FTM and commercial interconnection offers, are available in the Commission’s draft report at paragraphs 5 to 8.

## Comparison of MTAS in undertakings and Commission's benchmarked rates

	Until 31/3/2009	Until 31/3/2010	Until 31/3/2011	Until 31/3/2012	Until 31/3/2013	Until 31/3/2014	Until 31/3/2015
<b>Voice (NZ cents per minute)</b>							
Vodafone undertaking	15.0	14.4	14.0	13.0	12.0	11.0	
Telecom undertaking	15.0	14.0	12.0	11.0	10.0		
Benchmarked rates *	7.2	6.5	5.8	5.2	4.7	4.3	3.8
<b>SMS (NZ cents per SMS)</b>							
Vodafone undertaking	9.5	8.9	8.3	7.7	7.3	7.0	
Telecom undertaking	3.5	3.5	3.5	3.5	3.5		
Benchmarked rates *	0.95	0.86	0.77	0.69	0.62	0.56	0.50

\* note – the Commission's benchmarked rates apply for calendar years from 1 January to 31 December each year, in contrast to Vodafone's and Telecom's undertakings which apply from 1 April in one year to 31 March in the next year.

**Calculation of expected reduction in retail prices for fixed-to-mobile calls as a result of regulation.** The estimated reduction in the retail cost of calling a mobile from a fixed line as a result of regulation has been calculated by the Commission on the basis that:

- in 2008 the average retail FTM price was 30.66 cents per minute, and the average wholesale MTR was 16.25 cents per minute;
- current wholesale termination prices are 15 cents per minute;
- the Commission's benchmarked wholesale termination price is 7.2 cents per minute;
- historically, approximately 75 per cent of reductions in wholesale termination rates have been passed-through to retail prices; and
- if wholesale termination rates are regulated at the Commission's benchmarked rate, then retail FTM prices would be expected to be around 6 cents per minute (or just over 20 per cent) lower than under the undertakings.

**Process for remainder of the MTAS Investigation:** Submissions from interested parties are due by 28 July 2009. Telecom, Vodafone and 2degrees have been invited to submit revised undertakings at the same time as their submissions on the draft report. Cross-submissions, responding to any submissions and revised undertakings, are due by 18 August 2009, before a conference on the draft report in September.

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