



TelstraClear Limited

Opening presentation

**SCHEDULE 3
INVESTIGATION INTO
REGULATION OF MOBILE
TERMINATION**

23 – 25 February 2005 Commerce Commission Conference

23 February 2005

Introduction

1. TelstraClear welcomes the opportunity to participate in the Commission's conference on Regulation of Fixed-2-Mobile (f2m) termination.
2. In addition to myself, participating in the Conference for TelstraClear at various stages will be:
 - a. Rob Allen (TelstraClear).
 - b. Wendy Dodd (TelstraClear).
 - c. Adrian Virdun (TelstraClear).
 - d. Ralph Simpson (Bell Gully).
 - e. John Gilkison (BellGully).
 - f. Suella Hansen (Network Strategies).
 - g. Jasper Mikkelson (Marsden Jacob Associates).
 - h. Tomasso Valletti (Imperial College London).

Approach to the Conference

3. TelstraClear fully supports the Commission's revised approach to the Conference:
 - a. Each of the parties have had ample opportunity through numerous rounds of submissions and cross-submissions to fully detail their views.
 - b. The revised approach will also deal with the problems of new material being presented at Conferences. The Commission has made it clear that cross-submissions mean that there is no need for new material to be submitted at the conference.
 - c. Accordingly, the Commission's revised approach means that the Conference can be focused on what the Commission considers that it needs to hear, rather than the parties trying to second guess what the Commission wants to hear.

Support of designation of fixed-2-mobile termination

4. F2m Termination should be designated:
 - a. There should be no glide-path.
 - b. There should be no carve out for 3G voice – the carve out should be limited to data.
 - c. The Commission should not be spooked by threats made by Telecom and Vodafone about alleged investment risks for 3G networks.

5. I will now briefly explain our reasons for these views.

Why regulate fixed-2-mobile termination?

6. TelstraClear considers that f2m termination should be regulated for the following reasons:
 - a. f2m is a bottleneck service on both Telecom and Vodafone's networks.
 - b. There are no effective constraints on mobile operator behaviour such that competition is effective and the service is priced efficiently, regardless of how the market is defined.
 - c. F2m termination rates are excessive, both in absolute terms and relative to the fixed network interconnection charges and international mobile termination rates. No evidence has been provided that would suggest that New Zealand is more expensive to provide mobile services in than other countries, let alone to justify the difference in rates. This is despite Vodafone being the world's largest mobile operator, and therefore having access to a considerable amount of information on the cost of operating in various countries.
 - d. High f2m termination rates are a major contributor to limited competition in the downstream f2m and toll call services market, as Telecom as a vertically-integrated fixed and mobile provider is able to raise the costs incurred by fixed network only providers of fixed-to-mobile services. This has directly resulted in higher (than necessary) f2m retail rates for end-users.
 - e. Regulating f2m termination rates will enable these profits to be competed away in the downstream fixed-to-mobile/toll calls market, resulting in increased competition in this market and reduced prices for end-users.
 - f. Regulation of f2m termination (for both 2G and 3G voice) would promote competition to the long-term benefit of end-users.
 - g. The Commission's CBA and qualitative assessment supports this view. This is in line with considerable overseas precedent – for instance, the UK, Australian and Irish regulators have all recently decided to regulate (or in the case of the UK, continue to regulate) f2m termination.

The Commission should not impose a glide-path

7. Vodafone has advocated that the Commission introduce a glide-path for f2m termination rates, if the Commission decides to regulate the service. The Commission should not impose a glide-path:
 - a. A glide-path would delay the affect of the regulation on Vodafone and Telecom, and delay the benefits of regulation to end-users.
 - b. A glide-path would amount to a form of compensation to the access provider for the excess profits it is being required to forgo.
 - c. An immediate reduction in f2m termination rates would result in a large change simply reflects how excessive f2m termination rates currently are.
 - d. An immediate reduction in f2m termination rates at forward-looking cost-based prices will maximize the competitive impact of the regulation.
 - e. If the Commission ran the CBA with a glide-path, the net benefits of regulation would be substantially reduced compared to regulation without a glide-path.
 - f. Additionally, the Commission introduced an immediate 58% reduction in fixed PSTN interconnection prices – from 2.7cpm to 1.13cpm.
8. At best, even if Vodafone’s arguments in favour of a glide-path were to be accepted, Vodafone concedes that its arguments would only justify a three-year glide-path:¹

“Contracts for customers who receive handset subsidies are generally between 2 and 4 years in length, with the average contract length being 3 years. This suggests a glidepath of at least that length is necessary...”

¹ Para 267 of Vodafone’s “Submission on the Commerce Commission Draft Report on Mobile Termination (30 November 2004).”

The inevitable investment in 3G mobile networks should not impact on the regulation

9. Both Vodafone and Telecom have endeavoured to spook the Commission out of recommending regulation of f2m termination rates and/or 3G f2m termination rates. They have thrown up the spectre that such regulation would jeopardise investment in 3G mobile networks.
10. TelstraClear does not consider that the Commission should give any credence to such claims.

The alleged investment risks for 3G are not real

11. We are not aware of any evidence that regulation of 2G or 3G f2m termination has adversely impacted on 3G mobile network investment. Neither Telecom nor Vodafone has provided any such evidence – despite Vodafone operating in a number of markets where such regulation has been introduced.
12. Nor is there any evidence to suggest that 3G mobile investment decisions in New Zealand are being negatively impacted by regulation (or the prospect of regulation) of f2m termination in New Zealand.
13. The spectre of delayed 3G investment has been put to scare the Commission off regulation. But even such scare tactics are qualified with Vodafone, for example, stating “we are not saying that we will delay our 3G investment as a result of MTR regulation”.²
14. Further, as recently as last month, Vodafone’s Managing Director Tim Miles was professing to be “fired up” about 3G and promising “big surprises”.³
15. The drivers behind investment in 3G networks are the greater functionality and services that 3G enables, compared to 2G, and the consequent increased revenue that could be extracted from such enhanced functionality and services. Investment in 3G networks should stand and fall on their own merits.
16. Providing Telecom and Vodafone with a guaranteed source of economic profits from f2m termination will weaken the disciplines on Telecom and Vodafone to invest efficiently.
17. TelstraClear sees little or no difference between arguments made by Telecom and Vodafone that they need economic profits from f2m termination to prop up investment in their 3G networks, and arguments for import tariffs and subsidies to protect local industries.

The carve out of mobile termination for data fully addresses any concerns about investment incentives

² Para 432 of Vodafone’s submission on the Commission’s Mobile Termination Draft Report, 30 November 2004.

³ “Vodafone makes big promises”. The National Business Review (28 January 2005).

18. TelstraClear fully supports limiting the mobile termination regulation for voice calls. The benefit to end-users from 3G network investment lies in value added services for data, not traditional switched voice. The exclusion of data from the regulation therefore fully addresses any concerns about investment incentives.
19. The distinguishing feature of true 3G networks are their ability to integrate both circuit-switched and packet switched technologies and support significantly higher data rates to support applications such as full-motion video, video conferencing and full internet access. These “traffic cases” are in addition to the operation of 3G networks to carry traditional switched voice traffic where we see no great quantum leap in the way this traffic type is delivered. The end-user will not be able to distinguish their voice service whether it is conveyed on 2G, 3G or a combination of these networks. Nor should the Commission recommend this “splitting of hairs” approach in delivering the same traffic with no differentiated service from an end-user perspective. 3G of course is not alone as a technology in supporting greater use of data across mobile networks. Even plain old 2G or 2.5G technology is used to transmit not only voice communications but also auxiliary services such as data, SMS, MMS and facsimile.
20. TelstraClear agrees that handover of packet switched data traffic carried from and to 3G networks should be excluded, but not because of the status of this traffic type as “3G” or not “3G” but on the basis that regulation of data involves looking at separate markets and a different potential bottleneck to that of circuit switched mobile voice calls (which is the subject of the present enquiry).
21. The Commission’s proposal to carve out 3G f2m voice termination rates from regulation would go a step too far. The carve out would go beyond protecting against supposed investment risks. The carve out would actually create an artificial incentive for Telecom and Vodafone to invest in and develop 3G networks faster and earlier than they otherwise would. This is because investment in 3G networks would amount to a form of regulatory “avoidance”. It would enable Telecom and Vodafone to transfer f2m termination from cost-based 2G to monopoly priced 3G. They may well also attempt regulatory “evasion” by claiming parts of their 2G network are in fact 3G, again to mitigate the impact of the regulation.

Additional concerns about carving out 3G f2m voice termination

22. As a matter of general principle, the Commission preference should be to avoid technical specifications and exemptions and exclusions based on technology. Any regulation should identify the service type covering termination of voice calls on all digital mobile networks ie 2G and 3G networks.
23. There are a number of difficulties in clearly and robustly distinguishing 2G and 3G networks. The Commission’s adoption of technology specific regulation and service descriptions would create ongoing difficulties with effectively regulating the designated service. Calling parties would not be able to distinguish between voice calls to 2G and 3G mobile networks. Calling networks could not tell the difference. And depending whether the called party physically was, the mobile network is likely to automatically switch between 2G and 3G.

Concluding remarks

24. TelstraClear looks forward to the opportunity to answer any questions that the Commission may have for us on the regulation of mobile termination rates.

Grant Forsyth
Manager, Industry & Regulatory Affairs
TelstraClear

Vodafone makes big promises

28 January 2005

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Kate McLaughlin

Vodafone New Zealand managing director Tim Miles has no word yet on when his company will launch its 3G network but he's fired up and promising big surprises.

Mr Miles said Vodafone's offering will be aimed at both business and consumers and will be "quite different" from what Telecom has delivered.

He would not be drawn on rumours that "quite different" meant a surprise launch of a 4G network.

4G is a big step up in speed, allowing more bandwidth for applications like videophones, downloads and interactive games.

Telecom launched its 3G network late last year, built by Lucent and based on an upgrade of its 027 network.

Vodafone's network, based on 3GSM technology and being built by Nokia, will give it about 10 times current capacity, creating a different way to price services, both voice and data.

Mr Miles said there would be "incredible" breadth of handsets, wireless devices, content and services on offer - "you name it."

As well as getting more customers to substitute landlines with Vodafone mobiles, Vodafone wants customers to use their mobiles more, to increase its market share by minutes.

That figure stands at around 4-5% of the total minutes across all networks in New Zealand; fixed, mobile, voice and data.

The extra capability would allow Vodafone to counter price and internet access barriers, Mr Miles said.

"We will price it at a level that is attractive to customers because having spent all this money on creating a capability, possibly the dumbest things we could do is to not encourage people to use it."

Yet 3G is by no means the last step in Vodafone's mobile roadmap. Vodafone Group is driving major network suppliers to move to the next level - super fast networks with even more capacity.

"We've got some things that are happening we'll probably announce a little later this year that will be very significant to New Zealand. We're getting it because Vodafone Group wants to do it and it has picked us."

In three to four years, he said, Vodafone would probably have 50 times today's capacity. And because it operated only in mobile, Vodafone could focus on that market, rather than balancing value between mobile and fixed, Mr Miles said.

That was the group's strategy when it acquired mobile companies in Japan and Italy last year and sold off fixed line businesses included in the deals.

"We want to be in a position where what's in our customers' best interests and our interests are completely aligned."

About two-and-a-half years ago, Vodafone Group began consolidating its businesses around the world.

"The company said, 'well, look, we are about providing global mobility'."

First, it wanted the businesses all to be known as Vodafone and, second, to standardise infrastructure so customers got the same service anywhere they went, Mr Miles said.

Vodafone New Zealand has been part of that consolidation and can now leverage off the group's global scale.

"We're not just buying [technology] as Vodafone New Zealand, we buy as Vodafone Group and we can pass that on to our customers."

Whether Vodafone will take up its option to buy 20% of junior telco Woosh (which expires in September) is yet to be decided.

"We learn a lot from being involved in it, but it's a different question to do that, rather than to say we're now going to buy some."

Mr Miles said Vodafone contributed \$3 million to Woosh's initial \$6 million trial. He said he wasn't surprised to hear of Woosh's annual result, a loss of \$18.9 million, because the company was still in the startup phase of building its network.

End of article