



Comments on the Commerce Commission's Mobile Termination Issues Paper

ihug

ihug Ltd is New Zealand's original internet pioneer, it has over 100,000 current subscribers across broadband, dial-up and telephony products in New Zealand. It provides wholesale broadband and satellite access and web services to telecommunications operators and ISPs. The company has achieved its position from a culture of continuous innovation, which includes New Zealand's first flat rate dial up internet plans, high-speed internet access, virus and spam email filtering, and is one of New Zealand's leading VoIP telephony service providers.

In 2003, the company merged with iiNet, one of Australasia's largest Internet Service Providers. The group now has over 300,000 current subscribers across broadband, dial-up and telephony products in New Zealand and Australia.

Ihug has invested substantially in both voice and data services in New Zealand and is constantly extending the reach of its voice services. We have agreements with Telecom and Telstra Clear that enable us to efficiently interconnect our own national infrastructure and provide real alternatives for New Zealand customers.

Recent initiatives include the provision of residential services for Auckland customers via wireless networks providing the first real alternative to Telecom. It is the first wireless phone and broadband internet service for Auckland, Hamilton and Pukekohe residents and we plan to expand this to other areas of New Zealand as soon as possible.

These points are made to emphasise ihug's credentials as a well established New Zealand company, with a history of investment it intends to continue with the provision of future voice and data services for New Zealand consumers.

Our Comments

In respect of the Commerce Commission's issues paper on the regulation of Mobile Termination, ihug are very supportive of the approach taken by the Commerce Commission and the points made in the paper.

Our comments here are made by way of reinforcement of many of the findings described in the issues paper.

In particular, we agree with the observations in paragraphs 124 and 125 -

124. The mobile termination market in New Zealand appears to be characterised by:

(a) High barriers to entry;



(b) Substantial market power in the hands of mobile network operators, because of the CPP arrangement, the state of current technology, and the lack of countervailing power in the hands of purchasers of termination services;

(c) Termination charges that are substantially above the costs of services in comparable jurisdictions;

(d) Termination charges that appear to be substantially above the cost of supplying such services.

125. In light of the above, the provision of mobile termination services on each network in New Zealand may not be subject to effective competition.

The current mobile termination rates mean that the retail prices for fixed to mobile calls are either very high or, where priced more reasonably, are, in fact being used as a loss-leader to enhance other offers to customers. It is our experience that, in order to encourage take-up of our fixed to mobile rates, the levels at which our retail offers need to be made are below cost.

The standard rates for residential customers from Telecom and Telstra Clear (as shown in your table in para 126) are more than double equivalent Australian rates¹ and cannot be justified.

The fact that these high rates have prevailed since 1997 indicates to us that they are not, in any way, linked to economic efficiency or affected by competitive pressures. Charges for telecommunications services that have been the subject of competitive pressures have clearly reduced over the same period.

Thanks to the good work of the Commission we now have fixed network interconnect pricing of 1.13c/m for toll bypass, which has contributed to an efficient pricing regime for long distance calling in New Zealand.

Similarly the “bill and keep” model that now applies to “fixed to fixed” local interconnection provides the same efficient pricing regime for local calls. ihug would prefer a similar regime in the fixed to mobile environment, although this appears unlikely at the present.

It is clear that if the existing regime for fixed to mobile continues, termination rates will not be reduced by the network operators who currently enjoy monopoly rents. There is no incentive for these operators to modify their rates. They have not done so for the last seven years and without regulated controls, they are unlikely to do so in the future.

Need for Regulation

It is clear that, in order for the rates to be adjusted to a cost basis, a regulated approach will need to be taken. We agree also that an interim approach, based on international benchmarking, is an appropriate methodology which could deliver a result in the short term. This result has the added advantage that, as international rates are increasingly

¹ http://www.telstra.com.au/phones/homeservices/plans_homeline_comp.htm
http://www.optus.com.au/Vign/ViewMgmt/display/0,2627,3_6749--View_392,00.html



based on costs, future rate movements would not be incongruous with the interim position.

In determining the target level for a new rate, we agree that it is reasonable to look at similar economies. As described in para 121, the current rates are significantly above those being contemplated in other jurisdictions.

The ACCC's recent draft recommendation is that mobile termination rates in Australia be reduced to 12 cpm (A\$) by 2007. In the UK, Ofcom has set a rate of around 6 ppm. Even accounting for exchange rates, these are significantly below termination rates in New Zealand.

We believe that, given the regime does not move to a “bill and keep” model, a rate below 10 cpm is achievable in New Zealand. A rate that would allow significant pass-through to consumers and reduce the instances of loss as described by Telstra Clear and ourselves. The pass-through effect resulting from these reduced termination rates will encourage increased traffic with the potential for increased revenues as volumes increase with lower retail pricing. It will also encourage competition as the total bundle of profitable telecommunications services expands.

We believe this increased competition is flow as a reduced termination rate addresses the issue that the existing structure is

“restricting the ability of the access provider to raise rivals’ costs”

rather than

“lowering barriers to entry, permitting more efficient firms to enter and thereby constraining the pricing behaviour of the access provider (para 164)”

This follows from our expectation that the likelihood of an additional mobile network in New Zealand is low, but implementation of alternative networks using VoIP, wireless and satellite is already occurring with a reasonable likelihood that these new technologies will provide further opportunities to new entrants to the New Zealand “fixed” network market.

Summary

In summary, we maintain that;

- The existing Mobile Termination regime is not only uncompetitive, but anti competitive because the access provider currently has the ability to raise rivals’ costs.
- The existing network operators will not reduce terminating rates voluntarily. In order for the rates to be reduced, regulation will need to be applied.
- The mobile terminating rate can and should be lowered significantly, a halving of the rate or better would not be inconsistent with global trends and imminent changes being flagged by overseas regulators such as ACCC and Ofcom.



- Regulating (reducing) the rate will have the effect of increasing competition as alternative fixed networks are constructed.
- In the event that a cost based model is not achievable in the short term, it is appropriate to use benchmarking against overseas prices.

Our Recommendation

That the New Zealand Commerce Commission introduce a regulated rate for Mobile Terminations with either a “bill and keep model” where the nett cost to networks is assumed to be neutral as a result of balanced traffic flows, or to a rate based on benchmarking on overseas pricing. A cost based model should be considered as a final pricing principle.

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