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I welcome the opportunity to provide a cross-submission on the Commerce Commission's MTAS Investigation Draft Report. I strongly urge the Commerce Commission to adopt a pure bill and keep method for MTAS, as has been proposed in the MTAS Draft Report.

There is much concern in the market that regulated rate reductions in MTAS will not necessarily flow through to retail pricing, particularly for FTM. If BAK is adopted, or an IPP (initial pricing principle) of 1cpm (on par with fixed termination) then surely pass-through of at least 100% of the regulated MTAS rate reduction will occur? There is a growing prevalence in the New Zealand landline market for "all you can eat" bundles for national landline calling. Common sense would indicate that if MTAS is set to the same rate as fixed termination, then many landline/toll providers would extend these unlimited bundles to include FTM calls and for per minute FTM pricing to match national landline toll pricing. If MTAS is set to the same rate as fixed termination, a voice provider's input costs for FTM calls would be similar if not the same as national landline calls so retail pricing would likely be on par.

I am stunned that Vodafone has disregarded the Commerce Commission's request to put forward their "best offer" for MTAS. The Commerce Commission has clearly stated that an immediate reduction to 7.2cpm for MTAS is required in conjunction with an ongoing "cost path". It is bizarre that Telecom has the audacity to propose a "glide path" well in excess of cost, slowly trending down to 7.2cpm by 2015. It is worth noting that fixed (i.e. landline) termination in New Zealand is currently regulated to cost at 1cpm. I am undecided as to whether, a) Vodafone and Telecom believe the true cost of mobile termination is around 15x higher than fixed termination (trending slowly down to 7.2x higher in year 2015 in Telecom's view only) or b) Vodafone and Telecom have without just cause disregarded the Commerce Commission's request for "best offer" MTAS rates.

Many Vodafone mobile plans offer "free" on-net calling, such as "200 minutes Vodafone to Vodafone" on post-pay and "free weekends" on Supa Prepay. I am not aware of any Vodafone consumer plans (post-pay or prepay) offering "free calls" or "free minutes" to New Zealand landlines. Considering that landline termination is 1c per minute, then one can only assume one of the following two scenarios is correct - that Vodafone's true cost of mobile termination is less than 1cpm or alternatively that they are "losing" 14cpm for these "free" on-net calls. Does Vodafone honestly expect us all to believe their true cost of mobile termination is 15cpm? Why then do they find it more attractive to encourage "free" on-net mobile to mobile calls with a supposed "cost" of 15cpm, rather than encouraging mobile to fixed calls at 1/15th the cost? These facts alone should encourage the Commerce Commission to give serious weighting to a BAK regime for MTAS, or an IPP no higher than 1cpm.

I note that Paul Reynolds, Telecom New Zealand CEO was an employee of BT (British Telecom) for over 20 years from 1983 and oversaw their wholesale business through operational separation. BT is now actively involved the UK campaign "Terminate the Rate" which is actively lobbying UK Government and consumers to encourage Ofcom (the UK telecoms regulator) to abolish mobile termination rates completely. Maybe some of Dr Reynolds former colleagues at BT can offer him some suggestions for sensible MTRs in the New Zealand market. Telecom's proposed offer of a drawn out glide-path which ends with a mobile termination rate **more than 7x higher than fixed termination** in year 2015 is absurd. The proposed glide-path is contrary to what the Commerce Commission has recommended in its MTAS Draft Report and should be rejected.

I note that Vodafone has previously sought retail price controls when looking to introduce their Homezone local calling offer. Vodafone was insistent (and rightly so) that Telecom not be allowed to charge a higher retail price for off-net calls to "Vodafone local numbers" compared to on-net calls to Telecom local numbers. Vodafone claimed this would represent a "hobbling" of competition. Why is it that Vodafone now claims it is not the role of the Commerce Commission to regulate retail prices? The Commerce Commission needs to seriously consider introducing retail price controls to the mobile market. Vodafone and Telecom should be banned from charging higher retail prices for off-net calls compared to on-net calls. As Vodafone has correctly identified in previous interconnection negotiations, allowing higher prices for off-net calls compared to on-net calls would represent a hobbling of competition before it has the opportunity to emerge.

The New Zealand mobile market is a clear duopoly, with two players both with significant market power. The new third player in the market is a minnow with very limited market power. Vodafone has succeeded in shutting out new competition until recently with "wholesale" charges up to 19x higher than retail charges. How is it that Vodafone can charge at retail \$10 per month for 1000 on-net SMS (i.e. 0.5c per SMS), yet insists on charging 9.5c per SMS (19x retail price) to competing networks wishing to send messages to Vodafone customers? If Vodafone New Zealand had limited market power and less than 25% market share this would not be as much of a problem. The fact is Vodafone New Zealand has significant market power, holds 55-60% of the New Zealand mobile market and is engaging in anti-competitive conduct with wholesale pricing up to 19x retail pricing. There is no way small mobile networks can compete effectively with wholesale termination rates so far in excess of cost.

I look forward to positive outcomes in the New Zealand mobile market in the near future.

Please do not hesitate to contact me should you have any questions.

Kind Regards
Rhys Smith