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It is with much relief that the Commerce Commission has recommended in its draft report that MTAS becomes a regulated service, as well as SMS TAS. I applaud the Commerce Commission in having the vision to recommend a reduction to cost-based pricing for both MTAS and SMS TAS in conjunction with an ongoing cost-path. Mobile pricing at both a wholesale and retail level in New Zealand is disgraceful compared to both developed and third-world countries. It is long overdue for the Commerce Commission to show a very swift hand to both Telecom and Vodafone to show their continued "gaming" of the regulatory system is over.

I am concerned however with the potential for the "gaming" to continue, as it appears that any regulated rate reductions in MTAS and SMS TAS will not take effect for 12-18 months. I am also concerned that the Commerce Commission has given very little consideration to a "bill and keep" ("BAK") regime for wholesale MTAS and SMS TAS. There is absolutely no denying that the countries using the BAK system (e.g USA, Canada, Hong Kong, Singapore) have very high mobile usage on a minutes-per-month basis, when compared to countries with a CPP billing system.

Hundreds if not thousands of hours of technical research and brainstorming has been conducted in the course of the current investigation of MTAS. Much of this is overly technical for the lay person. I will put forward some simple statements and questions below to generate further thought and possibly show how the current system is anti-competitive and has prices well in excess of cost.

***Fixed termination pricing compared to mobile termination pricing***
The cost-based price of fixed (i.e. landline) termination in New Zealand is generally between 1c and 1.13c per minute. Both Vodafone and Telecom would like us to believe that the cost-based price of mobile termination in New Zealand is around 15c per minute, if not higher. With even a relatively limited knowledge of technology, one would reasonably assume that cost of mobile termination would be several times higher than fixed termination. The Commerce Commission has proposed a current cost-based price of 7.2cpm for MTAS in its draft report, which is around 7x higher than the current regulated fixed termination cost. This proposed price would appear generous. It is absolutely ludicrous that both Telecom and Vodafone want New Zealanders and the Commerce Commission to believe that their mobile termination **cost** is around **13-15 times higher** than fixed termination cost.

***On-net retail pricing for SMS compared to wholesale SMS TAS***
It beggars belief that Vodafone can legally charge at retail $10 per month for 2000 on-net (i.e. Vodafone to Vodafone) SMS (i.e. 0.5c per SMS), yet Vodafone is insistent on charging its wholesale customers and future competitors **19x** this price for an SMS to be sent to one of its customers. 0.5c for retail SMS and 9.5c for wholesale SMS

TAS? If the New Zealand mobile market was competitive at a retail level, on-net deals such as this would not be a problem. The fact is Vodafone has well in excess of 50% of the mobile market by both revenue and market share, and this pricing is blatantly anti-competitive. Vodafone has claimed that a new competitor could match this deal or offer a similar deal. Of course they can, however 2000 on-net SMS offered by a small competitor with very limited market share is rather useless as some/most/all of your friends and acquaintances would obviously remain on the competitor's (e.g. Vodafone) network.

***Big country, too few people***

I am tired of Vodafone, Telecom and the naysayers proclaiming that New Zealand has a small population and a large land mass, so therefore costs will be much higher, at both a wholesale and retail level. A simple response to this is that Australia has much better mobile pricing compared to New Zealand, both at wholesale and retail. Admittedly Australia has around 5x New Zealand's population. However Australia also has around 28x the land mass of New Zealand. Therefore the original argument is redundant.

***Waterbed?***

Vodafone and Telecom have both indicated previously that a "waterbed effect" can be expected if MTAS is regulated. In simple terms, this is basically an increased retail price to offset a significant decrease in incoming mobile termination revenue.

Vodafone Australia also claimed a waterbed effect would occur due to regulated decreases in MTAS and the resulting loss of revenue. The opposite has occurred. Recently, Vodafone Australia launched an "Unlimited Cap" plan. AU$114 per month for unlimited calling (within Australia, including mobiles), unlimited SMS (worldwide), unlimited MMS (worldwide) and 2GB of data. Most mobile phones with a retail price under $1200 are free on a 24 month contract with this plan. No similar mobile plan exists in the New Zealand market. Some claim that New Zealand is 50-100% more expensive for mobile usage compared to overseas. Using the Vodafone Australia "Unlimited Cap" as a simple guide, I would say **New Zealand is at least 4x more expensive** than Australia for a heavy mobile user.

***EU leading the way***

Viviane Reding, Telecommunications Commissioner of the EU has rightly deemed MTRs a "cash cow" and a "rip off". It is not common to see a Government-endorsed regulator using wording like this. The Commerce Commission appears to be following her lead and is also taking an axe to MTRs.

I look forward to positive developments in the New Zealand mobile market in the coming months.

Should you have any questions please do not hesitate to contact me.

Kind Regards
Rhys Smith