



Thursday 29 May, 2008

Dr Ross Patterson
Telecommunications Commissioner
Commerce Commission

Mobile to Mobile Termination

Dear Dr Patterson

Thank you for your letter on 8 May requesting views as to whether the Commerce Commission should undertake an investigation into mobile to mobile termination rates.

As the representative body of major users, TUANZ has a strong interest in ensuring high rates for off-net calls do not become a disincentive to new mobile operators planning to offer cheaper voice calls and SMS services. In a market with 104% penetration (2007 Telecommunications Market Monitoring Report), a new entrant will only be able to acquire customers by 'winning' them from existing suppliers.

Termination rates are widely accepted as an area of market failure. That is, users can choose the network for their own phone but not that for the people they call. They are captive to whatever terminating network the other party selects. As the regulator's ultimate purpose is to safeguard the interest of consumers, TUANZ believes it is entirely appropriate for the Commerce Commission to investigate whether off-net pricing is currently too high.

We consider that the references in your letter to two previous Commerce Commission investigations, released in March 2008 and June 2005, and the 2007 Telecommunications Market Monitoring Report, March 2008, adequately proves that "there are reasonable grounds for an investigation into the matter" as per clause 1(1) of Schedule 3 of the Telecommunications Act 2001.

However TUANZ would like to add the following concerns, which we believe add weight to the need for an investigation:

International precedents

In many overseas jurisdictions, mobile termination rates are set by the regulator. TUANZ notes that in Australia the Australian Competition and Consumer Commission set the termination rate for voice calls at 12c/minute for voice the first half of 2007, reducing to 9c by the end of 2008.

By comparison, in New Zealand the termination rate – through an agreement with the government, Vodafone and Telecom – is set to be reduced from a high of 20c a minute in 2007 to 14c (Vodafone) and 12c (Telecom) by 2012.

Number Portability – on-net and off-net calls no longer clear to customers

With the advent of number portability on April 1, 2007 - and full portability which includes pre-pay accounts on April 1, 2008 - the mobile prefix is now no longer a definite signal as to what network the caller is phoning. Current operators ruled out the possibility of alerting callers to the fact that a phone number has been ported via a beep or message as they considered this would be too confusing for customers (although we note that carriers have set up a free text service so that customers can text a phone number to find out if it has been ported). A reduction in off-net charges resulting from regulated termination rates would reduce this user concern.

Therefore we would welcome a Commerce Commission investigation and look forward to making a comprehensive submission to the appropriate Issues Paper in due course.

Kind regards



Sarah Putt
Policy and Communications Manager