

6 May 2009

MTAS Benchmarking –  
Response to Commission  
Comments on Undertakings  
Telecom New Zealand

**NERA**

Economic Consulting

## **Project Team**

James Mellsop

Will Taylor

Kevin Counsell

NERA Economic Consulting  
Level 18, IAG House  
151 Queen Street  
PO Box 105 591  
Auckland 1143  
Tel: +64 9 373 7230  
Fax: +64 9 373 7239  
[www.nera.com](http://www.nera.com)

## Contents

1.	Introduction and Summary	1
2.	Change in Approach	2
3.	TSLRIC Models	3
4.	Review of Commission Benchmarks	6
5.	Median versus 75 <sup>th</sup> percentile	10
6.	Glide Path	10
6.1.	Introduction	10
6.2.	Glide Path when MNOs are Transitioning to New Networks	10
6.3.	Regulatory Precedent	11

## 1. Introduction and Summary

On 25 March 2009, the Commerce Commission released a letter providing comments on the undertakings it had received from Telecom, Vodafone and NZ Communications in respect of the mobile termination access service (“**MTAS**”) investigation (the “**MTAS Comments Letter**”).<sup>1</sup> This letter contained benchmarking by the Commission from which the Commission concluded that “*the current cost-based MTR could be as low as NZ\$0.07 for MTM and FTM, and NZ\$0.01/SMS*”.<sup>2</sup> The Commission also stated that “*...there is no justification either for the glide paths contained in Vodafone and Telecom’s undertakings, or for further glide paths...*”.<sup>3</sup>

We have been asked by Telecom to review the Commission’s benchmarking approach, as well as the statement that glide paths are unjustified.

The Commission’s benchmarking approach can be summarised as creating a set of TSLRIC model estimates of providing MTAS in other countries, converting these back to New Zealand dollars using a 50:50 hybrid PPP/average exchange rate,<sup>4</sup> and then selecting the median of this sample.<sup>5</sup>

This approach has some important shortcomings which undermine the usefulness of the chosen benchmark. The Commission has altered some aspects of the methodology for benchmarking MTAS that it established during the “fixed-to-mobile” (FTM) and “roaming” investigations, without giving any reason for doing so. The differences between the Commission’s approach in the FTM and roaming investigations and that currently proposed are briefly outlined in section 2 of this report.

The changes of greatest concern are the Commission’s decision to benchmark against the outputs of TSLRIC models (as opposed to the actual rates adopted by overseas regulators when they differ<sup>6</sup>) and the selection of the median instead of the 75<sup>th</sup> percentile. As we discuss in section 3, TSLRIC cost models typically make assumptions that result in cost estimates unachievable in real world telecommunications markets, and this concern was a factor that caused the ACCC to set a regulated MTAS rate above the modelled TSLRIC estimate for Australia. In our view, it is more appropriate to benchmark the actual rates that regulators have applied.

---

1

<http://www.comcom.govt.nz/IndustryRegulation/Telecommunications/Investigations/MobiletoMobileTermination/ContentFiles/Documents/MTAS%20Comments%20letter.pdf>

2 MTAS Comments Letter, page 2.

3 *Ibid.*, page 4.

4 Whereby the PPP is from 2007 and the average is the 10 year average over the period 15/01/99-14/01/09.

5 This description is intentionally simplistic. For example, in the UK the regulator has set a glide path to the cost estimate. In this instance the Commission has benchmarked the rate from the glide path applying to the current year.

6 The countries where the regulator appears to explicitly regulate a MTAS rate that differs from the cost estimate are Australia, France, Israel, the Netherlands and Malaysia.

In this light, we extend the Commission's benchmarking in section 4 to cover the actual rates applied by regulators. We also make some minor adjustments to the Commission's benchmarking of model outputs. These minor adjustments result in a sample median of \$0.0711, as opposed to the figure of \$0.0694 set out in the MTAS Comments Letter. Using the actual rates, the median is \$0.0984 or \$0.1142, depending on whether the lower or upper bound of actual rates is used.

With this benchmarking in place, we then discuss the appropriateness of the Commission's decision to select the median from the sample. In our view, the 75<sup>th</sup> percentile should be used in order to address the asymmetric risk of regulatory error (section 5.1).

The 75<sup>th</sup> percentile of the adjusted Commission sample is \$0.1040. Using the actual rates, the 75<sup>th</sup> percentile is \$0.1221 or \$0.1481, depending on whether the lower or upper bound of actual rates is used.

To place the Commission's benchmarking in context, the countries that the Commission lists as deriving their regulated MTRs from benchmarking (Portugal and Iceland) both have rates of approximately \$0.13,

Finally, in section 6 we discuss the Commission's view concerning the appropriateness of a glide path. Most of the benchmarked regulators do permit a glide path, and we think that this is efficient, particularly in the context of mobile network operators ("MNOs") that are in the process of transitioning from one network to another. Due to the "waterbed effect", a material cut in MTAS rates will increase subscription prices and/or reduce handset subsidies, making it more expensive for consumers to switch to the new 3G network, slowing down uptake and the shutdown of the old network.

## 2. Change in Approach

The benchmarking methodology adopted in the MTAS Comments Letter is different from the Commission's previous methodology as established in the FTM<sup>7</sup> and roaming<sup>8</sup> investigations. The Commission has not outlined the reasons behind this change in approach. The differences are summarised in Table 1.

---

<sup>7</sup> Commerce Commission (2006), "Schedule 3 investigation into regulation of mobile termination", *Reconsideration Final Report: Public version*, 21 April 2006.

<sup>8</sup> Commerce Commission (2008), "Schedule 3 investigation into amending the roaming service", *Final Report*, 10 March 2008.

**Table 1  
Methodological differences**

	<b>FTM/roaming</b>	<b>MTAS Comments Letter</b>
Benchmark	Mixture of model outputs and regulated rates, although the Commission uses the <i>regulated rates</i> where these are different	Mixture of model outputs and regulated rates, although the Commission uses the <i>model outputs</i> where these are different
Point selected	75 <sup>th</sup> percentile	Median
Currency conversion	10 year average exchange rate	50:50 weighting of 10 year average and 2007 PPP

A discussion of the appropriate currency conversion is beyond the scope of this paper. However, the remainder of this paper discusses the appropriateness of the Commission’s shifts to model-based benchmarking and the median.

### 3. TSLRIC Models

The Commission bases its benchmarks on the output of Total Service Long-Run Incremental Cost (TSLRIC) models, or variants of these models,<sup>9</sup> developed for overseas regulators. While the exact assumptions in these models are typically specific to the particular network being modeled, TSLRIC models in general make a number of assumptions that are not necessarily consistent with the realities of (efficient) network costs.

TSLRIC models typically make some sort of assumption as to the nature of the network on which costs are based. One such assumption is the scorched earth approach to cost modeling, which assumes that the network is constructed entirely from scratch, as if the current network does not exist. Scorched earth assumes the location of the network nodes are optimized to reflect the most efficient network design today. The scorched earth approach contrasts with the scorched node approach, which takes as given the location of the network nodes based on the existing infrastructure, which may not necessarily be efficient given the current geographical distribution of demand.

Regardless of whether the scorched earth or scorched node approach is used, both approaches are static concepts that do not reflect the realities of (efficient) network investment:

- The scorched earth/node approaches assume the entire network is built in one go and thus economies of scale can be realized, whereas in reality networks are built incrementally; and

---

<sup>9</sup> Such as Long-Run Incremental Cost (LRIC) models and Long-Run Average Incremental Cost (LRAIC) models. These models are all similar in their underlying features, such that our comments in this section apply generally to all of these variants of TSLRIC models.

- In reality efficient investment is at least partly sunk, and requires spare capacity to be built into the network to reflect demand uncertainties and the future evolution of the network.

TSLRIC models also typically assume that network investments are made using best-in-use technology and modern equivalent assets. In reality, however, network investments are made using the most efficient infrastructure assets available at the time the investments are made, although these may prove to be inefficient when considered relative to modern equivalent assets.

Taken together, these factors that reflect the reality of network investment lead to TSLRIC models producing a lower estimate of cost relative to that which is actually (efficiently) incurred, and thus lower regulated returns. This can reduce the incentives for network investment, as the network operator may not expect to recover the higher costs from the actual network investment.

The ACCC has recognised that, because of the practical realities of network investment, TSLRIC provides an estimate of the price of the MTAS that is lower than that achievable in reality. In its MTAS pricing principles determination the ACCC states (pages 17-18):<sup>10</sup>

***The WIK model adopts a scorched earth approach (adjusted for traffic and contextualisation for Australian conditions) which assumes efficiencies that may not be obtainable in a rollout under competitive conditions.***

*As recognised by the 2007 Pricing Principles, it may be appropriate to consider certain constraints faced by MNOs in a policy context when establishing indicative prices for the MTAS. The ACCC notes that some of these constraints are already built into the policy parameters informing the efficient cost estimates derived from the WIK model*

*The ACCC also notes the Tribunal's comments in the Vodafone decision in relation to real life constraints and in particular a new entrant's inability to bring new design and technology to bear immediately in a legacy-sized network. Accordingly, the ACCC considers it appropriate to accept an application of the TSLRIC approach that recognises these constraints. **A key implication of this approach is that while the cost estimates derived from the WIK model provide important information, they cannot be considered conclusive in determining an appropriate indicative price.***

*Vodafone criticises the WIK model submitting that it does not reflect the practical realities which would be experienced by a new entrant rolling out a network in Australia. Optus submits that the WIK model fails to take into account real world constraints faced by efficient mobile operators in Australia. These include the cost of achieving scale, the location of base station sites, and busy hour dimensioning.*

---

<sup>10</sup> ACCC (2009), "Domestic Mobile Termination Access Service Pricing Principles Determination and indicative prices for the period 1 January 2009 to 31 December 2011", March 2009.

*Whilst the ACCC does not accept the specific constraints highlighted by Optus, the ACCC is of the view that practical realities experienced by a hypothetical new entrant rolling out a network warrant a conservative approach to setting an indicative price for supplying the MTAS. As such, the ACCC considers that the WIK model provides an estimate of the TSLRIC+ of supplying the MTAS somewhat lower than that achievable in reality. [emphasis added]*

Another problem with standard TSLRIC models is that they do not account for the fact that rapid technological change in mobile means that existing providers must periodically transition from one technology to another.<sup>11</sup> Our understanding is that, in general, the cost models that the Commission benchmarks are based on a single 2G only network.<sup>12</sup> While it may be that a 3G network will have a lower per unit cost than a 2G network,<sup>13</sup> in New Zealand and overseas many operators are in the process of transitioning to new 3G networks<sup>14</sup> and it may be efficient on a transitory basis to operate both networks. This is a factor that neither a straight 2G nor 3G TSLRIC model will take into account, and thus these models will underestimate the efficient cost of providing MTAS by current providers.

This issue was considered by the Commission in the FTM investigation:<sup>15</sup>

*Forward-looking cost-based modelling like TSLRIC typically models a network using the most efficient current technology in reasonably widespread usage. This is likely to be the technology used by a new entrant. There is no reason for such modelling to consider any transitional costs that may be incurred by an existing operator that has to keep two networks operating while customers migrate to the newer technology. However, the economic lives and tilts set for the assets modelled should take into account possible obsolescence from generational advances in technology. The relevant benchmark being established is the level of costs faced by an efficient service provider in a competitive market. [emphasis added]*

In our view, there is a reason to consider transitional costs – to fail to do so would under-compensate efficient MNOs. The Commission’s approach assumes that it is not efficient for operators to keep both networks running as customers migrate to the new network. By not allowing for recovery of these costs, the Commission is implicitly finding that as soon as the new network is built, the old one should be turned off immediately. This would cause huge consumer disruption.

---

<sup>11</sup> This is distinct from other modern equivalent asset-regulated networks such as gas pipelines, where transition to a new technology is not required to provide the service.

<sup>12</sup> The obvious exception to this is the Ofcom model which blends 2G and 3G costs.

<sup>13</sup> E.g., the WIK report accompanying the MTAS Comments Letter notes on page 3 that, “Successful 3G deployment should lead to costs per unit of service that are lower than those due to a 2G network.”

<sup>14</sup> For example, Telecom is in the process of launching its new W-CDMA network while Vodafone is continuing the roll out of its W-CDMA network.

<sup>15</sup> Para 303, FTM Reconsideration Final Report.

In its recent MTAS Pricing Principles, the ACCC adopted a more realistic approach in this respect. In contrast to the Commission, the ACCC recognised that a hypothetically efficient firm would continue to operate both networks:<sup>16</sup>

*The ACCC is of the view that it will remain efficient for a hypothetical MNO to concurrently operate both 2G and 3G networks for a period of time whilst end users migrate to 3G capable handsets. The ACCC recognises that the WIK model does not account for the increased efficiencies of 3G networks, or the increased efficiently incurred costs of concurrently operating 2G/3G hybrid networks. [emphasis added]*

The ACCC saw this as one factor that supports treating the 2G TSLRIC model as a floor on the efficient cost of supplying MTAS:<sup>17</sup>

*It is the view of the ACCC that the WIK model effectively provides a floor price on the cost of supplying the MTAS on a 2G network. The ACCC considers that a cost model based on a 2G network remains an appropriate tool to inform decisions, but its application as a tool to estimate the efficient costs of supplying the MTAS in the Australian context may become increasingly limited. [emphasis added]*

#### 4. Review of Commission Benchmarks

In the MTAS Comments Letter, the Commission has benchmarked TSLRIC rates for the following countries:

**Table 2  
NZCC benchmark countries**

Australia
Denmark
France
Israel
Malaysia
Netherlands
Norway
Sweden
UK

In this section we benchmark the actual rates applied in these countries, as, on the analysis in section 3, these are more likely to represent an achievable, efficient cost for MTAS. Indeed, as noted in section 2, the Commission has used actual rates, where these are available, rather than model-based rates in past investigations. However, we have also made two adjustments to the Commission’s model-based benchmarking.

---

<sup>16</sup> ACCC (2009), pp18.

<sup>17</sup> ACCC (2009), pp19.

The first adjustment is to correct a minor error the Commission has made on the figure it uses for Israel. On page 9 of the MTAS Comments Letter, the Commission states that:

*Adjustments have been made, to the cost based rate of 0.159NIS/min (real 2003 NIS). Firstly the referenced document states that the cost modelled rate includes an externality charge of 1.1 agorot/min. The Commission considers that externality charges are not cost based. As a result the Commission has removed 1.1 agorot/min from the estimated rate.*

In support of this statement the Commission cites page 101 of the Analysys report describing the Israeli cost model.<sup>18</sup> This page simply states that the externality surcharge is 1.1 agorot/min. However, the figure of 0.159NIS/min which the Commission subtracts the 1.1 agorot from is in Exhibit 0.2<sup>19</sup> of the Analysys report. Exhibit 0.2 of the Analysis report is described on page v as follows:

*The compounded effect of all the changes made to the model for the voice termination cost of a GSM new entrant, **not including an externality surcharge**, is shown in Exhibit 0.2. [emphasis added]*

It is therefore our understanding that the figure of 0.159NIS/min does not include an externality surcharge and thus the Commission has erroneously subtracted 1.1 agorot from this figure. The correct NZD figure for Israel is therefore slightly higher at NZ\$0.07.

The second adjustment is to the UK figure. The Commission uses the benchmark of £0.045 (in 2006/07 dollars) and adjusts this to 2009/10 dollars using an inflation rate of 3% per annum. However in Ofcom's recently released report<sup>20</sup> which reflects the outcome of the Competition Commission determination, Ofcom makes some changes to the £0.045 rate, based on recommendations by the Competition Commission, converting it to a nominal 2009/10 rate of £0.0484.<sup>21</sup> We use this figure in our analysis.

With respect to benchmarking the actual rate applied, our approach has been to simply take the actual rates applied in each country as cited in Appendix One to the MTAS Comments Letter. Where the Commission has not mentioned the actual rate applied, we have provided the reference used as a footnote to our Table 3 below. Given that regulators often apply a range of rates to different operators,<sup>22</sup> our approach has been to separately benchmark

---

<sup>18</sup> Analysys, *Report for the Israel Ministry of Communications - Response to issues raised concerning the Analysys cost model*, 15 December 2004.

<sup>19</sup> *Ibid*, page v.

<sup>20</sup> Ofcom (2009), "Adoption of Revised SMP Services Conditions following the Competition Appeal Tribunal's Directions of 2 April 2009".

<sup>21</sup> *Ibid*. see figure 1.

<sup>22</sup> For example in the UK different regulated rates apply to Vodafone and O2 than those applying to T-Mobile and Orange.

the top and bottom of the range. Where there is no range specified we use the same rate for the “top end” and the “bottom end”.

We have also included the actual rates for Spain. The Commission states that these were excluded from its analysis because the cost modelled rate is confidential. The Commission included Spain in its benchmark sample for the FTM and roaming investigations. Given that the actual rates applied have recently been publicly announced,<sup>23</sup> we have used these rates in the benchmarking. The results of our adjustments to the Commission’s benchmarking are shown in Table 3.

Depending on the approach taken, Table 3 shows that the median varies between \$0.0711 and \$0.1142 and the 75<sup>th</sup> percentile varies between \$0.1040 and 0.1481.

The Commission presents a number of countries that it has excluded from its benchmarking in Table 2 of the MTAS Comments Letter. Without analysing whether or not these countries were appropriately excluded, they do provide useful context for the results of Table 3. The Commission calculates the median of these countries as \$0.1330,<sup>24</sup> which is much greater than the medians calculated in our Table 3. If one included all of these countries in the “Corrected” NZCC scenario,<sup>25</sup> the median and 75<sup>th</sup> percentile would be \$0.1040 and \$0.1330 respectively.

It is also interesting to consider the countries the Commission lists as deriving their regulated MTRs from benchmarking (Portugal and Iceland). Both of these countries have rates of approximately \$0.13, significantly above the Commission’s benchmark.

---

<sup>23</sup> See [http://www.telegeography.com/cu/article.php?article\\_id=28011&email=html](http://www.telegeography.com/cu/article.php?article_id=28011&email=html), 14 April 2009.

<sup>24</sup> Page 12, MTAS Comments Letter.

<sup>25</sup> Using the much lower figure the Commission mentions for Bulgaria of €0.076.

**Table 3  
Adjusted benchmarking**

	NZCC MTR Home Currency (year of modelled rate), corrected	Actual MTR Applied Home Currency (bottom of range)	Actual MTR Applied Home Currency (top of range)	NZCC FX rate	NZCC MTR NZD	NZCC MTR NZD (corrected) <sup>26</sup>	Lower bound applied MTR NZD	Upper bound applied MTR NZD
<b>Australia</b>	AU\$0.058 (2008)	AU\$0.0900	AU\$0.0900	0.8883	0.0653	0.0653	0.1013	0.1013
<b>Denmark</b>	kr 0.54 (2009)	kr 0.5400	kr 0.7400	4.5984	0.1174	0.1174	0.1174	0.1609
<b>France</b>	€0.029 (2008)	€0.0300	€0.0400	0.5516	0.0526	0.0526	0.0544	0.0725
<b>Israel</b>	NIS 0.1720 <sup>27</sup> (2008)	NIS 0.2090 <sup>28</sup>	NIS 0.2090	2.4190	0.0666	0.0711	0.0864	0.0864
<b>Malaysia</b>	MYR 0.0873 (2008)	MYR 0.0877 <sup>29</sup>	MYR 0.0877	1.6695	0.0523	0.0523	0.0525	0.0525
<b>Netherlands</b>	€0.056 (2008)	€0.0700	€0.0810	0.5387	0.1040	0.1040	0.1299	0.1504
<b>Norway</b>	NOK 0.4800 (2008)	NOK 0.4800	NOK 0.71 <sup>30</sup>	5.0299	0.0954	0.0954	0.0954	0.1412
<b>Sweden</b>	kr 0.3675 (2008)	kr 0.4300 <sup>31</sup>	kr 0.4300	5.2937	0.0694	0.0694	0.0812	0.0812
<b>UK</b>	£0.0484 (2009)	£0.0471 <sup>32</sup>	£0.0484	0.3811	0.1290	0.1270	0.1236	0.1270
<b>Spain</b>	N/A	€0.07	€0.10	0.5066	N/A	N/A	0.1382	0.1974
				<b>Mean</b>	<b>0.0836</b>	<b>0.0838</b>	<b>0.0980</b>	<b>0.1171</b>
				<b>Median</b>	<b>0.0694</b>	<b>0.0711</b>	<b>0.0984</b>	<b>0.1142</b>
				<b>75<sup>th</sup> Percentile</b>	<b>0.1040</b>	<b>0.1040</b>	<b>0.1221</b>	<b>0.1481</b>

<sup>26</sup> Includes corrected MTRs for Israel and the UK.

<sup>27</sup> The Commission originally used the figure of 0.159 NIS.

<sup>28</sup> Applied rate of 22 agarot less the externality surcharge of 1.1 agarot. See <http://www.moc.gov.il/155-1813-en/MOC.aspx>.

<sup>29</sup> Actual rates contained in 2006 determination: [http://www.skmm.gov.my/registers/cma/comdeter/pdf/Access%20Pricing1\\_2006.pdf](http://www.skmm.gov.my/registers/cma/comdeter/pdf/Access%20Pricing1_2006.pdf).

<sup>30</sup> The actual rate used is NOK 0.75 in 2010 dollars. This has been adjusted to 2008 dollars using the inflation rate of 2.5% per annum, as used by the Norwegian regulator to adjust the 2005 figure of NOK 0.45 in 2005 to NOK 0.48 in 2008..

<sup>31</sup> The document the Commission cites is in Swedish, however we understand that it recommends that the MTR be set at kr 0.43.

<sup>32</sup> The lower bound is the rate applied to Vodafone and O2 while the upper bound is that applying to T-Mobile and Orange. Rates taken from figure 1 of Ofcom (2009).

## 5. Median versus 75<sup>th</sup> percentile

As noted in section 1, the primary reason for using the 75<sup>th</sup> percentile rather than the median of the sample is to address the asymmetric risk of regulatory error. Estimating parameters for regulatory access pricing involves a great deal of uncertainty. In general, the consequences of regulators making an error in parameter estimation are asymmetric:

- Prices that are “too high” harm allocative efficiency; and
- Prices that are “too low” harm dynamic efficiency by deterring investment by the incumbent in its network.

Because the welfare consequences of investment not occurring in the underlying network outweigh the deadweight loss associated with higher prices, it is appropriate to select the 75<sup>th</sup> percentile of parameter distributions when estimation is subject to uncertainty. As discussed in section 2, the Commission selected the 75<sup>th</sup> percentile in both the roaming and FTM investigations when benchmarking the cost of MTAS. In the FTM investigation the Commission’s rationale for using the 75<sup>th</sup> percentile was due to “the risks attached to using a small number [5] of available benchmarks”.<sup>33</sup> The Commission has not stated why it no longer considers the 75<sup>th</sup> percentile appropriate for MTAS benchmarking. Given the small sample the Commission has used (9 countries) and the fact that mobile networks are characterised by the requirement to invest in new technology, the asymmetric risk of regulatory error would appear to be quite relevant for MTAS.

## 6. Glide Path

### 6.1. Introduction

On page 4 of the MTAS Comments Letter the Commission states that:

*“...there is no justification either for the glide paths contained in Vodafone and Telecom’s undertakings, or for further glide paths...”*

The Commission has not outlined the analysis on which this conclusion is based. In the context of operators that are transitioning to new networks, there is actually an important rationale for a glide path, which we discuss in Section 6.2.

Similarly, because a zero glide path policy results in a “shock” to MTRs, several overseas regulators have adopted a glide path, as we outline in Section 6.3.

### 6.2. Glide Path when MNOs are Transitioning to New Networks

As we discuss below, other regulators have accepted the need for a glide path, for what in our view are legitimate reasons. However, there is also another important rationale for a glide path that, to our knowledge, has yet to be discussed by regulators.

---

<sup>33</sup> Commerce Commission (2004), “Schedule 3 investigation into regulation of mobile termination”, *Draft Report: Public version*, 18 October 2004, p.70.

In the FTM investigation the Commission accepted that there is a “waterbed” effect whereby a reduction in MTAS rates will result in increased subscription prices and/or a reduction in handset subsidies.

One important feature of the New Zealand mobile market (and many overseas markets) is that MNOs are in the process of transitioning to new networks.<sup>34</sup> In this context the MNO must migrate its subscribers from the old network to the new network before the old network can be switched off. This is likely to require users to purchase a new phone.

The waterbed effect is crucial in this respect because a sudden cut in MTAS rate will likely result in an increase in subscription prices and/or a reduction in handset subsidies compared to the counterfactual. These are both factors that will make consumers less likely to switch to the new network, or at least slow down the switching. This would lower consumer welfare and delay the shut down of the old network.

Therefore the transition to a new network and the effect of MTAS rate reductions on switching costs provide a valid rationale for a glide path.

### **6.3. Regulatory Precedent**

The Commission has stated that its preliminary view is that there is no justification for the MNO-proposed glide paths of MTAS rates. However, this approach appears to be at odds with that used in the majority of the countries which the Commission uses as benchmarks. The Commission’s letter identifies four of the nine benchmark countries as not using glide paths: Australia, Israel, Malaysia and Sweden. However, as indicated in Table 4 below, two of these countries (Israel and Malaysia) actually do appear to use glide paths, while Australia used a glide path for its first regulatory control period.

As shown in Table 4, many of the regulators in the Commission’s benchmark countries present (and accept) rationales for the use of glide paths, including that:

- An immediate reduction in rates can generate harmful disruption to the business plans of mobile operators;
- An immediate reduction in rates may unduly affect demand patterns; and
- Any reduction in rates needs to maintain investment incentives (and thus the long-term interests of consumers) by allowing a sufficient period of time for adjustment.

---

<sup>34</sup> For example, Telecom is in the process of launching a new W-CDMA network while Vodafone is expanding the geographic coverage of its W-CDMA network.

**Table 4 Glide Paths in Commission's Benchmark Countries**

Country	Glide path noted in Commission's letter	Further details on glide path	Rationale for glide path
Australia	Not proposed for 2009-2011	Glide path was used in the first regulatory control periods of 2004 to 2007 <sup>35</sup>	The glide path was implemented due to the ACCC's concerns that an immediate reduction might "generate significant and potentially harmful disruption to mobile operators' business plans". <sup>36</sup>
Denmark	Yes		
France	Yes, concludes at the end of 2010		
Israel	No	A glide path is in fact used, with termination rates falling over the 2005 to 2009 period <sup>37</sup>	Network operators raised concerns about the rapid reduction in termination rates under the proposed glide path initially proposed, and its effect on the operators and on consumer behaviour. However, a less rapid glide path was used, and Analysys notes that this takes into account the operators' concerns and ensures that demand patterns should not be unduly affected. <sup>38</sup>
Malaysia	No	A glide path is used, although termination rates increase over the 2006 to 2008 period <sup>39</sup>	
Netherlands	Yes, concluding in 2009		
Norway	Yes, concluding in 2010		The Norwegian Post and Telecommunications Authority (NPT) states that, because the reduction in termination rates is relatively large, it should be spread over the regulatory control period using a glide path. <sup>40</sup> In addition, NPT refers to the EC "proportionality principle" (the burden of remedies imposed should be proportionate to what they seek to achieve) and states that this dictates that

<sup>35</sup> ACCC (2009), "Domestic Mobile Termination Access Service Pricing Principles Determination and indicative prices for the period 1 January 2009 to 31 December 2011", March 2009, p.4.

<sup>36</sup> *Ibid.*, p.9.

<sup>37</sup> Analysys (2004), "Response to Issues Raised Concerning the Analysys Cost Model", Report for the Israel Ministry of Communications, 15 December, p.v.

<sup>38</sup> *Ibid.*, p.117.

<sup>39</sup> Malaysian Communications and Multimedia Commission (2005), "Access Pricing", A Report on a Public Inquiry, 30 November, p.92.

<sup>40</sup> Norwegian Post and Telecommunications Authority (2008), "Final decisions for designating undertakings with significant market power and imposing specific obligations in the markets for voice call termination on individual mobile networks", Supplementary decision for Network Norway, Ventelo, Barablu, Tele2, MTU and TDC, 17 November, p.37.

			price controls entailing substantial revenue reductions should be carried out by a glide path instead of one large immediate price fall. <sup>41</sup>
Sweden	No		
UK	Yes, concluding in 2010/2011		Ofcom considered that the glide path needs to balance the short-term welfare of consumers (through an immediate reduction in prices) with maintaining investment incentives for existing and prospective network operators by allowing a sufficient period of time for adjustment. <sup>42</sup> Ofcom also stated that an immediate price reduction would go against regulatory precedent and might not be in the long-term interests of consumers if it presented a material risk to further investment in mobile services. <sup>43</sup>

---

<sup>41</sup> *Ibid.*, p.49.

<sup>42</sup> United Kingdom Competition Commission (2009), "Mobile Phone Wholesale Voice Termination Charges", Determination, 16 January, p.316. Available at: [http://www.competition-commission.org.uk/appeals/communications\\_act/mobile\\_phones\\_determination.pdf](http://www.competition-commission.org.uk/appeals/communications_act/mobile_phones_determination.pdf)

<sup>43</sup> *Ibid.*, p.291 and 317.

# NERA

Economic Consulting

NERA Economic Consulting  
Level 18, IAG House  
151 Queen Street  
PO Box 105 591  
Auckland 1143  
Tel: +64 9 373 7230  
Fax: +64 9 373 7239  
[www.nera.com](http://www.nera.com)