

One NZ cross-submission on the Commerce Commission's review of MTAS draft decision

22 December 2025

Introduction

1. We welcome the opportunity to provide a cross-submission relating to the Commerce Commission's (**the Commission**) draft decision on whether Mobile Termination Access Service (**MTAS**) should be omitted from Schedule 1 of the Telecommunications Act 2001 (**the Act**). One NZ's cross-submission is specifically focused on responding to submissions made by Symbio and Pivotel.
2. Both parties oppose deregulation and argue not only for the retention of MTAS regulation but also for its expansion to include A2P SMS termination. Having examined their submissions carefully, One NZ considers that the arguments presented:
 - a. misunderstand the original rationale for MTAS regulation;
 - b. overlook the significant and undisputed changes to market structure, usage patterns, and consumer behaviour;
 - c. rely on assertions unsupported by evidence; and
 - d. ultimately seek regulatory intervention to safeguard the commercial interests of specific A2P providers, rather than to promote competition for the long-term benefit of end-users, which is the statutory test under section 18 of the Act.

One NZ's position

The submissions from Symbio and Pivotel mischaracterise the purpose and history of MTAS regulation

3. Both Symbio and Pivotel reiterate that each mobile network operator (**MNO**) retains significant market power (**SMP**) over termination, characterising the MNO as an 'unavoidable

trading partner¹. This claim is true in a narrow technical sense, but it misses the fundamental point that MTAS regulation was never imposed simply because termination involves a bottleneck. As the Commission recognised when introducing regulation in 2010, MTAS was imposed because of specific market features that prevented normal competitive constraints from operating, namely:

- a. Above-cost mobile termination rates (**MTRs**) that meant small operators could not match incumbents' on-net retail pricing; and
- b. Strong incumbent incentives to set high off-net rates, reducing the number of calls received by a smaller entrant and thereby discouraging customers from joining that network.

4. Symbio and Pivotal do not address these factors. They instead argue from the premise that any monopoly characteristic must justify regulation, which is not the legal or economic test.

SMP at point of termination does not justify continued regulation and misses the point that downstream markets are highly competitive

5. The continuing existence of SMP at the point of mobile termination is not sufficient grounds to retain regulation. This is a misreading of both economic regulation and section 18 of the Act.
6. Regulation is justified only where it is necessary to promote competition for the long-term benefit of end-users. It is not enough to demonstrate the theoretical ability of MNOs to raise prices. Instead, the Commission must consider whether:
 - a. the market features that previously enabled such conduct continue to exist;
 - b. end users would be harmed;

¹ Pivotal, MTAS Draft Report Submission, 3 December 2025, p.1; Symbio MTAS Draft Report Submission, 3 December 2025, p. 2

- c. alternatives or indirect constraints now exist; and
- d. the dynamic efficiencies from deregulation outweigh administrative burden of continued regulation.

7. The Commission has already determined that the original features prompting regulation no longer exist, and that MTAS no longer plays a meaningful role in competition at the retail level or in protecting end-users. Our previous submission supports this view.²

8. Furthermore, Symbio and Pivotal rely on the technical fact that SMS and voice must terminate on a mobile network to support their arguments for continued regulation. However, competition analysis must not stop at the network boundary, and the Commission must assess all functional substitutes, such as OTT messaging, in-app messaging systems and push notifications. If the Commission were to examine only the technical termination path for voice and SMS, it would be artificially defining the market so narrowly that it protects specific competitors (A2P SMS providers) rather than promoting competition overall. The downstream market for business messaging is now highly competitive and rapidly evolving (as highlighted below). A2P SMS is only one part of this landscape.

Market conditions have significantly changed, and the original rationale for MTAS regulation no longer applies

9. Symbio and Pivotal overlook the Commission's central finding that market conditions today bear little resemblance to those in 2010 when the regulations were introduced. Retail markets now centre on data, not voice or SMS. OTT communication platforms provide strong constraints and bypass the MTAS regime entirely. Consumers increasingly rely on app-based communications, a point the Commission expressly notes in its draft decision.³ The use of

² One NZ, MTAS Draft Report Submission, 3 December 2025

³ Commerce Commission, Mobile Termination Access Service (MTAS) investigation under Schedule 3 of the Telecommunications Act, Draft Report on whether MTAS should be omitted from Schedule 1 of the Act, 5 November 2025, p. 41

data-based OTT platforms can be expected to increase, reflecting the increased use of data applications generally (as evidence by continuing growth in data traffic on communications networks) and a decline in voice and SMS traffic.

10. Declining use of traditional voice and SMS, and the widespread adoption of OTT solutions, are evidence of real-world consumer preferences. Maintaining MTAS regulation in this environment would distort normal competitive dynamics and skew investment and innovation away from areas that matter to end-users.
11. Real-world commercial data further demonstrates the pace and scale of substitution taking place. Globally, WhatsApp Business API is projected to account for more than 40% of lost A2P SMS traffic by 2029, according to recent market intelligence presented by MobileSquared and Kaleido Intelligence (drawing on MobileSquared research up to December 2024).
12. This evidence is contrary to Symbio's argument that 'Enterprise messaging has no OTT substitute: Critical A2P uses (2FA, alerts, notifications) require delivery to telephone numbers and cannot rely on OTT apps, giving terminating MNOs pricing power that neither consumers nor OTT adoption constrains.'⁴
13. In addition, banks are increasingly using in-app authentication rather than SMS for 2FA and fraud alerts, which is another form of substitute for SMS. This decision reflects the banks' requirements for the enhanced security and control that can be achieved through apps, and the growing prevalence for SMS to be used in connection with scams and fraud activity (a key reason why One NZ imposes substantial restrictions and controls on businesses seeking arrangements with One NZ for the delivery of SMS and/or A2P services).
14. These examples demonstrate that:

⁴ Symbio MTAS Draft Report Submission, 3 December 2025

- a. Large enterprises are increasingly seeing OTT and in-app channels as credible substitutes for SMS.
- b. The claim that A2P messaging must terminate on a telephone number is no longer true for large and growing portions of the market.
- c. OTT options are increasingly constraining pricing and competitive dynamics in A2P markets.

Claims of ‘ample evidence’ of harmful MNO behaviour are incorrect and unsupported

15. Pivotal’s submission states: ‘There is ample evidence that MNOs exhibit monopolistic and anti-competitive behaviour in the absence of regulation.’⁵ It is unclear what evidence this claim is based on. MTAS regulation does exist today, so Pivotal cannot cite ‘evidence’ of behaviour ‘in the absence of regulation.’ If Pivotal is arguing that existing regulation is ineffective, the logical conclusion is that it should be removed, not extended. If Pivotal is speculating about future behaviour, its claim that ‘ample evidence’ already exists self-evidently cannot be true. Assertions unsupported by factual evidence should not displace the Commission’s detailed market analysis.

Symbio and Pivotal’s arguments are primarily about protecting their commercial models, not promoting competition for end-users

16. It is apparent that both Symbio and Pivotal advocate for continued and expanded regulation not because end-users would be harmed by deregulation, but because their own business models prefer continuing regulation. Symbio explicitly states that its business ‘relies on transparent, cost-based, predictable termination arrangements’, while Pivotal claims that the removal of cost-based MTAS would undermine the viability of wholesale transit providers. These statements reflect the commercial preferences of particular providers, not evidence of harm to competition or end-users.

⁵ Pivotal, MTAS Draft Report Submission, 3 December 2025, p.1

17. The purpose of regulation is not to guarantee margin protection or commercial certainty for specific wholesale market participants. It is to promote competition for the long-term benefit of end-users. The Commission is not required to (and should not) preserve commercial models that depend on legacy regulatory settings.
18. Commercial A2P terms reflect a range of legitimate considerations, including as noted the increasing need to manage fraud, scams, and security risks associated with messaging traffic. These risks are a growing focus for both industry and Government, and commercial terms necessarily reflect this environment. If A2P providers are dissatisfied with the commercial terms they face, that is not a basis for imposing sweeping regulation. A preference for more favourable wholesale pricing is not evidence of a market failure, nor is it grounds for extending MTAS regulation.

The arguments about new entry and MVNOs are misplaced

19. Pivotal suggests that deregulation ‘shuts the door’ to potential new entrants such as full MVNOs. This is contradicted by:
 - a. substantial recent growth in New Zealand’s MVNO market, which is evidence of New Zealand’s market structure supporting MVNO expansion;
 - b. the clear commercial incentives for all MNOs to offer wholesale access to utilise network capacity; and
 - c. recent commercial partnerships such as One NZ’s Advantai MVNO agreement aimed at supporting further MVNO growth.⁶
20. To the extent Pivotal implies that MTAS regulation is required to support entry by a fourth MNO, this lacks any grounding in economic reality. As we’ve noted previously, the costs and scale requirements for full network entry make such a model highly unlikely in New Zealand.

⁶ [One NZ doubles down on MVNOs with exclusive Advantai partnership | Reseller News](#)

The far more plausible (and increasingly observed) route is MVNO-based competition, which will continue regardless of MTAS regulation.

Regulation should not be expanded simply because one service is already regulated

21. Both Symbio and Pivotel propose that the Commission retain MTAS regulation and extend it to include A2P SMS termination. This is not how regulatory decisions should be made.
22. The fact that one service (P2P mobile termination) is regulated does not lower the threshold for regulating another service (A2P messaging). The Commission must undertake a full and proper analysis, including consideration of the requirement to promote competition for end-users, before making any recommendation that regulation should be expanded beyond what exists today.
23. Please contact the following regarding any aspect of this submission.

Tom Thursby

GM, Legal and Regulatory

e: [REDACTED]

Kamile Stankute

Government and Regulatory Affairs Manager

e: [REDACTED]