



MTAS Schedule 3 investigation: Draft Report

Cross submission | Commerce Commission
23 December 2024

Contents

Executive Summary	1
Introduction	3
Voice and SMS services	3
Application to person (A2P) SMS terminations	5

Executive Summary

Thank you for the opportunity to provide feedback on the submissions made in relation to the Commission's draft report recommending that MTAS be omitted from Schedule 1 of the Telecommunications Act 2001 (**Act**) pursuant to section 66(1)(b) of the Act (**the draft**).

We support the draft recommendations that MTAS should be omitted from the Act. The market has changed significantly since 2010 when MTAS was first designated and continued regulation is not warranted.

MTAS was regulated under Part 2 of the Act, consistent with the purpose set out in Section 18 of the Act. To promote competition in telecommunications markets in New Zealand, the underlying rationale for regulating MTAS was that incumbent mobile operators could take advantage of asymmetric network economies to raise the relative costs of new entrant mobile operators and so undermine investment in competing mobile networks with reduced downstream benefits flowing to end-users of telecommunications services.

Today there are 3 scale mobile network operators, which collectively invest hundreds of millions of dollars in mobile infrastructure and services across each year. Competition is effective and end-users enjoy a range of services and pricing options consistent with leading global markets. In practice MTAS rates to access seekers for person-to-person (P2P) voice and messaging services have not increased in recent years. They remain at the level set by the Commission in 2010.

It is also worth noting that commercial mobile termination charges for services such as A2P and other bulk business messaging services who are not MTAS access seekers, have not increased in recent years and, in most cases have declined in real and actual terms.

Importantly, over-the-top wireless and content services now compete with a wide range of mobile services with a wide range of substitute applications available for many of the mobile services once considered difficult to replicate. It would not be consistent with section 18 of the Act to retain MTAS as a designated service, nor would it be consistent with section 18 (or the Commission's broader powers under Part 2) to expand the scope of MTAS regulation to include A2P message termination.

MTAS voice terminations

Pivotel, Symbio and Virtutel (**the A2P submitters**) submit that the termination of voice calls to mobile networks is a monopoly and fear they will not be able to negotiate beneficial commercial terms to terminate calls if the service is deregulated.

We disagree. These submitters are, in effect, asking the Commission to only consider the technical function of call terminations, while ignoring the wider market and competitive context within which these services are offered.

As the Commission sets out in the draft, there have been significant changes since the service was regulated. The MNO market has matured and there are alternatives available to OTT providers (who may terminate directly to an end user app) and consumers who have proven adept at using OTT calling and messaging apps. Commission 2025 consumer research¹ highlights the significant consumer uptake of messaging apps with almost all customers having a messaging and calling app on their phones and over 80% of consumers having made an over-the-top voice call using the app on their device.

¹ See page 10 and 13 of the report. Uptake is reported by app and so the overall update is difficult to infer. Nonetheless, with major apps all having high uptake, consumers with at least one app must be substantial. [Telecommunications consumer satisfaction tracking report - January-March 2025 | Commerce Commission](#)

The maturity of the mobile market, retail competition and network of interconnection agreements mean that MNO termination rates are constrained, and MNOs can't discriminate against the A2P submitters as they suggest as traffic would simply appear through other routes.

Application to person (A2P) SMS terminations

The A2P submitters further argue that A2P SMS termination rates should be regulated.

We agree with the Commission that the scope of the current MTAS investigation under clause 1(3) of Schedule 3 of the Act should be limited to considering whether to omit MTAS from Schedule 1 (under section 66(1)(b) of the Act).

The Commission is already considering the submitters' A2P concerns under Part 2 of the Commerce Act 1986. That inquiry is considering the issues raised in the submitters' submissions, including the competitive dynamics of inputs into A2P services, conditions on the availability or use of those inputs, and the competitive effects of those conditions. The Commission further notes that it will continue to monitor the competition, performance and development of telecommunications market in New Zealand, including A2P services.

The Commission should not facilitate submitters "shopping" processes by opening a second parallel investigation to consider similar issues, and MNOs should not be subject to multiple reviews traversing the same ground.

In any case, we do not believe there are reasonable grounds to consider a Schedule 3 investigation of A2P SMS terminations. Enterprises already have a range of alternative and emerging services to communicate with their customers, including secure over the top services such as Whatsapp and enterprise's own customer apps. We operate in a highly dynamic messaging market with further work underway by government and industry to address scams and the use of messaging for fraudulent purposes. A Commission investigation is unlikely to facilitate – and is more likely to distract from - these initiatives.

In our view, the draft already sets out the appropriate course of action for the Commission - confirm the recommendation to omit MTAS from the Act, as set out in the draft decision and consider A2P submitters concerns separately under the Commerce Act and/or ongoing sector monitoring.

Introduction

1. Thank you for the opportunity to provide feedback on submission the Commission's draft report recommending that MTAS be omitted from Schedule 1 of the Act under section 66(1)(b) (**the draft**).
2. MTAS includes the termination of mobile-to-mobile (**MTM**) and fixed-to-mobile (**FTM**) voice calls, and short messaging services (**SMS**) that originate on another mobile network.
3. The Commission noted in the draft decision that the market has changed significantly since 2010 when MTAS was designated:
 - a. Mobile and over-the-top providers operate in a highly competitive market that is demonstrably delivering great investment, innovation and service outcomes for end users.
 - b. 2Degrees is now an established operator in the market and the original competition rationale for regulating termination rates – a concern that a combination of high termination rates and low on-net retail prices would stifle competition – is no longer a realistic concern.
 - c. At the same time as traditional voice and texting services are declining, we are seeing increasing use of substitute OTT² voice and messaging services such as Facebook Messenger and WhatsApp. Commission consumer research highlights the significant number of customers using voice and messaging apps to meet their everyday needs.
 - d. Mobile competition now occurs predominantly based on service quality and data inclusions, with many plans including unlimited texts and call minutes. Looking forward, the importance of data inclusions will continue to increase with 5G deployments and new OTT services, and the importance of carrier-grade voice and messaging services will continue to reduce.
4. Pivotal, Symbio and Virtutel (**the A2P submitters**) argue that MTAS should continue to be regulated and that regulation should be expanded to the termination of Application to Person (**A2P**) SMS.
5. We disagree. While calls and messages must terminate on an end-user device for end-to-end connectivity - this could be via a mobile network or via an OTT app accessed via any wireless network (including Wi-Fi) – and it is the range of consumer alternatives identified in the draft decision that provide a constraint on those services. In our view, the submitters do not raise any new matters, and the Commission can confirm its draft decision.

Voice and SMS services

6. Pivotal, Symbio and Virtutel submit that the termination of voice calls to mobile networks is a monopoly and fear they will not be able to negotiate beneficial commercial terms to terminate calls if the service is deregulated.
7. However, this approach misses the wider context within which we operate. In effect, the submitters ask the Commission to only consider the technical function of call terminations and ignore the competitive context within which these services are offered and the purpose for which

² For example, WhatsApp, Facebook Messenger, Microsoft Teams, Apple Facetime, Google Meet, Instagram, Zoom, Viber, or WeChat.

the Commission is granted the power to regulate mobile operators. Regulation and de-regulation must follow competition not unfounded fears.

8. And as the Commission sets out in the draft, there have been significant changes in the market that mean there are alternatives available to service providers (who may terminate directly to the respective end user device via their own over-the-top apps) and consumers (who can use one or more of the many over-the-top call services, usually without charge). Intense competition now exists that provides complete bypass of mobile network operators' carrier voice and messaging services – to such an extent that we now see carrier voice connections, carrier voice minutes, carrier messaging volumes in structural decline. These market changes constrain providers wholesale and retail voice termination prices. For example, the Commission observed that:
 - a. The mobile market has matured to the extent that it is unlikely any incumbent MNO would discriminate against a provider seeking to establish a thick MVNO.
 - b. Consumer habits have also shifted dramatically. OTT services have become widely used alternatives for communication, bypassing traditional mobile networks for messaging in particular, but also for voice services.
 - c. Most mobile plans now offer unlimited call minutes and messages, which indicates that the focus of differentiation has shifted to data allowance and speeds. Voice and in particular SMS allowances appear to no longer be such a differentiating feature of mobile plans.
 - d. High mobile ownership, greater mobile and internet coverage, and the availability of plans with bigger data caps (including 'endless data' plans) supports an increase in the adoption of OTT services which are originated and delivered over the internet.
 - e. OTT services are emerging as a viable and promising substitute for traditional mobile voice services. OTT services are widely available and actively used, with the majority of consumers with messaging apps on their smartphones having used those apps to make calls. If MTRs were to rise, OTT services provide a ready alternative for consumers.
9. We agree with each of these Commission observations, which accurately describe the context for declining voice and SMS volumes in our own business and an increasing use of OTT voice and messaging applications.
10. The Commission's 2025 consumer research³ highlights the significant consumer uptake of messaging apps with almost all customers having a messaging apps on their phones (with up to 90% of consumers having Facebook Messenger alone) and over 80% of consumers having made a call using the app on their device. While consumers may continue to use mobile and fixed line calling (on plans that now routinely include unlimited calling), the ready access to and ability of consumers to use over the top calling provides a competitive constraint.
11. We agree with the Commission conclusion that if MTRs were to rise, OTT services provide a ready alternative for consumers. The Commission's OTT survey findings show OTT is increasingly seen as an alternative to traditional mobile calling services.
12. In our view, the maturity of the mobile market, retail competition and network of interconnection agreements mean that it is unlikely any MNO could discriminate against the submitters as they suggest. If an MNOs sought to discriminate against a particular provider, traffic would transit via

³ See page 10 and 13 of the report. Uptake is reported by app and so the overall update is difficult to infer. Nonetheless, with major apps all having high uptake, consumers with at least one app must be substantial. [Telecommunications consumer satisfaction tracking report - January-March 2025 | Commerce Commission](#)

another MNO or fixed network carrier who have interconnection agreements with Spark. Call termination charges are constrained, and prices will apply to calls of a similar nature.

13. We further note that the Commission's approach is also consistent with that taken by the ACCC. The ACCC also considered the degree to which there are close substitutes to fixed-to-mobile and mobile-to-mobile voice services at the retail level and while it ultimately decided not to deregulate at this stage, it signalled that this was a closely balanced decision. The ACCC cautioned that the extent to which continued regulation is likely to promote competition may become increasingly limited due to the prevalence of included unlimited calls in mobile plans. The ACCC further noted that mobile voice calls are no longer a point of differentiation in the mobile services market.

14. We note, though, that the ACCC review was set in a different context and the residual issues that concerned the ACCC are not a feature of the New Zealand market. For example, the ACCC MTAS review:

- a. Came after a period of increasing retail prices. Conversely, the Commission market monitoring highlights a long period of static or declining volumes and revenues.
- b. Was set in the context of an emerging 2022 understanding of the impact of OTT services on voice and messaging markets. The ACCC pointed to 2022 research suggesting lower uptake of over-the-top voice services of around 52%⁴.

We operate in a dynamic market and the Commission's 2025 consumer research highlights significant recent growth in consumer uptake of messaging apps, with over 80% of consumers having made a call using the app on their device. On the face of it, this is at similar levels to messaging uptake that saw the ACCC conclude, amongst other considerations, that SMS termination should continue to be unregulated in Australia.

15. Overall, in our view, the A2P submitters provide no new market information to support a change to the Commission's draft recommendation.

Application to person (A2P) SMS terminations

16. Pivotal, Symbio and Virtutel further submit that Application to Person (A2P) SMS termination should be regulated. The A2P submitters made identical submissions in Australia and very similar submissions in the UK but their requests to expand regulation to include A2P messaging were appropriately declined by regulators in those markets.

17. As set out in the draft, the MTAS investigation under clause 1(3) of Schedule 3 of the Act is limited to considering whether to omit MTAS from Schedule 1 (under section 66(1)(b) of the Act). The Commission further noted that the scope of the MTAS investigation does not extend to amendments, such as adding a new service or amending the description of an existing service.

18. The Commission accordingly noted that it was considering A2P submitters concerns over certain alleged conduct in respect of A2P SMS under Part 2 of the Commerce Act 1986. That inquiry is considering the issues raised in the A2P submitters submissions, including the competitive dynamics of inputs into A2P services, conditions on the availability or use of those inputs, and the competitive effects of those conditions.

⁴ See page 15. The ACCC reported that, in 2022, 63% of people used an app for video calls (up from 55% in 2021) and 52% of people used an app for voice calls (up from 45% in 2021). This contrasts with the uptake of over-the-top messaging services which was 75% in 2022, up from 72% in 2021.

19. We agree with the Commission's approach. The Commission is right to limit the MTAS investigation to scope provided by the Act.
20. The Commission has an ongoing inquiry into issues raised by the A2P submitters. The Commission should not facilitate submitters "shopping" processes by opening a second parallel investigation to consider similar issues, and MNOs should not be subject to multiple reviews traversing the same ground. The Commission acting on A2P submissions in the MTAS investigation (which we do not believe are well founded) would pre-suppose the outcome of an ongoing investigation.
21. In any case, we do not consider there are reasonable grounds to consider an investigation of A2P termination services under clause 1(1) of Schedule 3 of the Act.
22. There are key differences between messages sent between mobile customers (person-to-person or P2P) and bulk enterprise application to person (A2P) messaging. A2P messages are sent by firms for a variety of purposes such as appointment reminders, multi-factor authentication, delivery updates and marketing. They are a very low costs and effective bulk marketing tool for businesses that compare with bulk email, social media and traditional bulk mail drops.
23. As with P2P messaging, significant technological and market developments are focused on enterprise applications that message directly to end customers and these applications increasingly provide an attractive alternative to traditional A2P SMS based services. For example, firms and content creators can use:

- a. Messages sent via apps that provide an over-the-top (OTT) communication services, such as WhatsApp for Business, Facebook Messenger, WeChat, and Instagram. In particular, Meta's WhatsApp Business offering is identified as likely to become the largest supplier of A2P messaging services in the coming years⁵:

"the real story for the mobile ecosystem is the explosive growth of WhatsApp Business and A2P messaging. Meta's management, for the first time, described business messaging as a "multi-billion-dollar annual run-rate" with double-digit growth, and some external analysts are now projecting WhatsApp Business revenue to hit \$6-7 billion this year, with a long-term potential of \$30-40 billion"...

"The WhatsApp Business API is now the backbone of enterprise-to-consumer engagement in many of the world's fastest-growing markets. In India, Indonesia, and across Southeast Asia, WhatsApp is the default channel for everything from customer support to commerce. Latin America tells a similar story. In Brazil and Mexico, more than 50% of mid-to-large brands are now using WhatsApp Business, and the platform is rapidly overtaking SMS as the preferred channel for A2P messaging. Even in Africa and the Middle East, banks and public-sector agencies are migrating critical alerts and authentication flows from SMS to WhatsApp, drawn by lower costs and richer customer experiences"...

"Meta's Q2 2025 results confirm what many in the industry have suspected: WhatsApp Business is no longer an experiment-it's a core growth engine, driving triple-digit A2P revenue growth in key markets, lowering costs, and setting the pace for the next era of enterprise messaging".

⁵ (5 August 2025). WhatsApp & A2P Messaging: Met's Q2 2025 is Big News. Mobile Ecosystem Forum. <https://mobileecosystemforum.com/2025/08/05/whatsapp-a2p-messaging-metas-q2-2025-is-big-news/>

- b. Messages and notifications sent via dedicated apps, such as banking apps, Uber apps, airline apps, or authenticator apps (e.g. Google Authenticator, Microsoft Authenticator).
 - c. Traditional communication channels such as emails, letters and voice calls, and
 - d. A range of innovative services are emerging including, for example, mobile providers offering direct access to system APIs that facilitate secure, authenticated messaging to customers.
24. There are already a range of alternative and emerging services to support enterprise communication with customers. There is further work underway across Government and industry to address scams and the use of messaging for fraudulent purposes. It is unclear what initiatives will come out of those workstreams, but they will likely again change the landscape within which A2P services are provided. The Commission would need to consider the implications of launching any review for the joint Government and industry scam workstreams.
25. There is further no evidence of competitive harm arising from the commercially negotiated approach to agreeing A2P termination rates. These rates have not increased at all in recent years. And even if MNOs sought to increase their prices, the growing take-up of RCS and other bulk mobile messaging apps and services will any constraint pricing and only speed up a transition to alternatives that avoid mobile networks entirely.
26. In our view, the draft sets out the appropriate course for the Commission. The Commission should finalise its decision based on the scope set out in the Act, considering A2P submitters concerns through the separate Commerce Act review and continued monitoring of the competition, performance and development of telecommunications market in New Zealand, including A2P services.

[end]