

tuanz



Submission to the Preliminary Findings Paper.

Commerce Commission Mobile Market Review.

30th June 2019

Introduction

1. TUANZ is pleased to submit in relation to the paper released on the 16th May 2019 on the Commission's preliminary findings from their review of the New Zealand mobile market. This submission is a Public Version and contains no confidential information.
2. Our address is PO Box 302 469, North Harbour, Auckland 0751 or Level 7, 62 Victoria Street West, Auckland Central. Our email address is office@tuanz.org.nz and our website can be found at <https://www.tuanz.org.nz>.

TUANZ

3. TUANZ is the association for the users of digital technology and connectivity. We are unique - **there is no other group or organisation that is representative of the people and organisations that are the end users of digital technologies in the manner that TUANZ is.**
4. Our member's want to see a lift in the digital economy along with the continued development of a strong market providing real choice for end users – whether corporations or consumers. We seek a national drive to leverage the opportunities that we have with our world leading digital networks. **TUANZ has the vision where New Zealand is in the top 10 countries for the use of digital technology.**
5. TUANZ position is consistent and clear: **The availability of competitively priced, good quality, fast connectivity in all parts of NZ is a critical economic enabler for the future of the NZ economy.**
6. TUANZ is a not-for-profit membership association with over 170 members, predominantly large organisations with a strong dependency on digital technology and connectivity as well as small enterprises and individual members. These small businesses and residential users are the customers of our large corporate members, who are just as focused on the quality of their customers' connectivity as their own.

Why did we need a review

7. TUANZ has been a key advocate over the years on many of the positive changes to the mobile market in New Zealand. Number portability and regulation of the mobile termination rates are two that were successfully

campaigned for by TUANZ. The latest campaign was to encourage the Government to undertake a review of the market as it stands today, and to see what changes might be needed to ensure we continue to develop the competitiveness of the market for our members and all users. Our members, have continued to tell us that while they recognise that the NZ market has over time delivered increased competition, they wanted this independent review undertaken to identify those areas where the market needs improvements to continue to ensure competitive outcomes.

8. We generally agreed with the Commission's original scope for this review but as the uniquely placed organisation to speak on behalf of users, we wanted to see this study be a wide ranging and comprehensive review of the mobile telecommunications market.
9. We encouraged the Commission to address the overall health and sustainability of the current state of the mobile market in New Zealand, as well as how it may evolve in the future. This would need to include readiness for the particular characteristics of the next generation of mobile networks (5G), the competitive nature of the UFB fibre network, the support and development of regional wireless players, and the availability and efficient use of investment in the New Zealand mobile market infrastructure.
10. As a resource-constrained organisation, but one wanting to make very clear fact based decisions, we believe this study developed by an independent body will help us understand the impacts of trends and issues that will impact end users of this form of connectivity.
11. We welcome the Preliminary Findings paper and would like to draw attention to a small number of specific areas which our members have identified as areas of concern.

The Third Player

12. Since the turn of the century we have seen continued investment by the two major mobile networks in initially extending coverage, and more latterly in the upgrading of the networks for greater speeds. The two major players have continued to compete with one another, but we suggest it has generally been head to head competition with each other.
13. We have also seen the arrival of a third mobile network operator, but that only came about after significant challenges around gaining spectrum and a workable roaming agreement were overcome. They also lacked the

capability to be a full service player until they purchased a well-established fixed line broadband provider.

14. We remain strong advocates of a multi-player scenario in mobile networks in New Zealand. We were a strong advocate for the entry of the third player and believe that their continued presence in this market is critical. In the paper the Commission notes that the market share for this player has increased and all are now profitable. While this may be factually true, we believe that vigilance needs to remain to ensure that the third player remains competitive, and in fact continues to grow their share to ensure that our market does not return to a duopoly.
15. **Just to be very clear, we are not aware of any current risk to any players viability, nor are we stating that any are vulnerable in any way. We are simply stating that now we have a multi-player market, the Government and the Regulator, need to ensure this remains in place.**

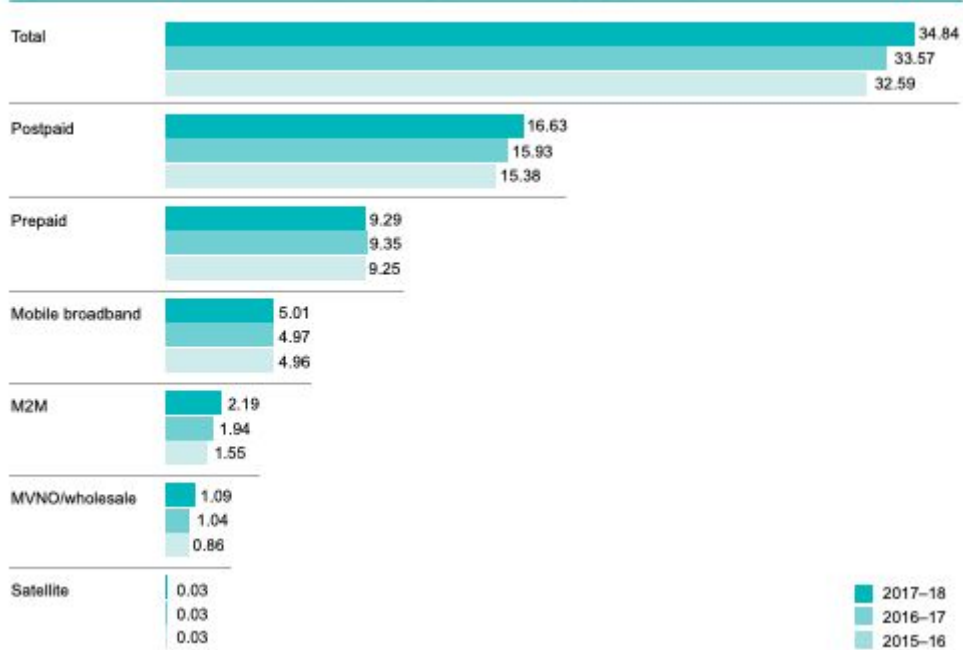
The need for a Fourth Player

16. In previous submissions we have stated that international research seems to show that having at least four significant mobile operators leads to real change. However, during our consultation with members, it was expressed that we are unlikely to see the investment in a fourth physical mobile network. This is largely due to factors such as the geographic spread of our population over what is sometimes very challenging geography, and therefore the capital cost of building a physical network becomes prohibitive given the size of the addressable market. One response was concerned around increasing coverage suggesting another MNO wouldn't help
17. It may be that there is a disruptive option available to a fourth player using new technologies, but we have yet to see this develop in any real sense to date.
18. To see increased innovation within this mobile marketplace, New Zealand needs more than three MNOs offering service - it needs a fully functioning MVNO environment with the competition that will bring.
19. Notwithstanding the Commission's conclusions in the paper, we remain to be convinced that the MVNO market in New Zealand is operating successfully. We have seen the introduction of new players into this

space (including the Warehouse and TrustPower) and are interested to see if more might happen here.

20. This issue around user choice when it comes to the number of operators offering services was one that we canvassed our members earlier this year. In their response they indicated that whilst they were comfortable with the current range of providers, they would be keen to see further targeted options (25% of respondents stated that there needs to be more choice). It's clear that TUANZ members are keen to see growth in the wholesale marketing of services and whilst welcoming the announcement of two new MVNO deals, they want the Commission to be vigilant and keep a very close eye on developments over the next short period before making their final decisions on whether there is a need for some form of regulatory reform in this market.
21. The issue around the lack of MVNOs in our market and the increase in options for users, was one of our key points in driving for the review in the first place. It seems logical that the more choices a user has, then the more likely that they will find a suitable, competitively priced service that meets their needs.
22. In preparing for this submission we looked at the current market operating in Australia where there are a number of successful MVNOs operating in that market, especially in the prepaid segment.
23. In December of 2018, the research company Roy Morgan found that MVNOs are now used by nearly 2 million Australians or 29.4% of consumers who have a prepaid mobile phone. Over 6.7 million Australians (32.6%) now have a prepaid mobile phone and a rising share of these prepaid mobile phones are bought via a Mobile Virtual Network Operator such as those operated by the likes of Aldi Mobile, Amaysim, Kogan, Boost, Lebara, Lycamobile and others.
24. In their 2017/18 report, the Australian Communications and Media Authority, showed a growing market share for MVNO connections - admittedly only 1.09m compared to the overall total of 34.84m connections but a decent amount of users choosing to take their services from a non-network operator.

Figure 1.11 Mobile services in operation by product category (million)

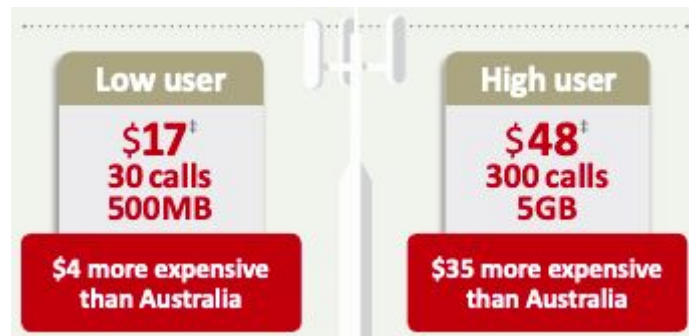


25. The Australian Government has also been very keen to see a fourth network built, with spectrum and a party identified to do so. It appears however that this will not likely happen given market consolidation occurring in their market, which indicates that a fourth MNO even in a larger market is a difficult proposition.
26. Whatever the outcome, increased choice and improved competition has shown long term benefits for users. Balance this with the need for a sustainable market based on our size and it's clear that in New Zealand, increased competition will need to come from virtual operators rather than physical networks.
27. The immediate real value to end users would be in having an increase in MVNOs and wholesale based offerings (including the new 5G networks) that address specific groups of users

The Future

28. We know, and the paper confirms that the amount of data usage on mobile networks is generally expected to continue to grow exponentially as more and more devices and networks are capable of delivering high data services such as video and live event streaming. Operators are already planning for this with the development of new technologies which

may drive early investment into networks. This could in turn lead to the continued high price of high volume bundles as we see in NZ already which compared to our nearest neighbour, Australia.



Source: Mobile Market Study - Preliminary Findings, page 3

29. As part of this review, we are concerned to ensure that the right market settings are in place to ensure that end users are not over paying for services. In our very first submission on this topic, we stated that a key issue that must be considered in any review was that :

“Our services must be competitive with like nations.

a. The current legislation has within it clear principles of promoting competition for the benefit of end users. This principle should remain.

b. New Zealand businesses now compete in a global market and it should be the Government's aim that the basic telecommunications services available here should be at least competitive and if not better than like nations. This will also enhance our ability as a nation to develop world leading light-touch export businesses.”

TUANZ - Broad list of Issues 18th February 2015, p6.

30. We now turn to some of those market settings as identified in the paper.

Spectrum

31. As well as topics such as MVNO's, in our previous submission we also touched on the issue of allocation of scarce spectrum along with spectrum sharing.

32. We have consistently pushed for a more holistic approach in this area. We strongly believe that the national interest and the interest of users should be taken much more into consideration than a simple auction for the highest price. This would include ensuring regional players are able to participate as well as allowing the possibility of additional new entrants into the market.
33. Our concern is that this is not current Government Policy, and while the Commission has identified it as an issue, it is a Government Department (MBIE) that controls allocation. In our recent media release on the topic we called on the relevant Minister's to take cognisance of the Commission's view in this area and look to make changes to the upcoming allocation rounds, especially for the development of 5G networks not being at the expense of reduced regional spectrum for Wireless ISPs (WISPs).

Roaming

34. We are pleased to see that the Commission has held off removing any regulation around national roaming at this stage. We believe that this needs to remain as a designated services for two major reasons.
35. The first is to ensure it remains as a tool to enable any fourth player if they were to ever look to build out a national network, the ability to launch a nationwide service without having to complete a full network build.
36. The second is a service that is currently not active, but which has been voiced by key rural players, especially farmers at our recent Rural Connectivity Symposium. At present, users are unable to roam onto other networks when their own provider is unavailable on their property. With all three mobile networks now operating on the GSM standards it is technically possible for there to be nationwide, cross-network roaming. It is already in place for 111 calls, and it could be expanded if there was both commercial and Government desire to do so.

Infrastructure Sharing

37. We believe that the review should include discussion around all aspects of a wholesale mobile market from roaming to MVNOs, through all forms of infrastructure sharing. The aim should be to ensure that the right access

and incentives are in place to encourage infrastructure sharing in mobile networks.

38. This would also have hopefully a positive impact of the continued improvement in mobile coverage for rural New Zealand through ensuring all forms of infrastructure sharing are available where needed.
39. We continue to stress that the development of the right forms of infrastructure sharing (whether that is roaming, or other forms as required) are critical to the development of mobile services in rural New Zealand. Our overriding goal of having urban like experience in rural New Zealand requires effective and efficient sharing of assets to push competitive coverage out from urban areas far and wide.
40. We are currently concerned over the need for the mobile companies to source funding to cover the investment required for new 5G networks. Infrastructure sharing may be one way to share funding as well as ensure that users do not see increased costs to cover these network builds. Interestingly, in an interview with the CEO of Infratil (a proposed owner of Vodafone NZ) Marko Bogoevski suggested that infrastructure sharing was something that might be explored to enable the new networks to be built.

Access to new Networks (specifically 5G)

41. There are also wholesale developments happening around the 5G roll outs in Australia. Telstra have been pushing ahead strongly with 5G, but have been clear to the market that they intend to hold onto the advantage that gives them, and not give wholesale access at this point. Optus on the other hand have already penned a deal with Vocus to extend their partnership with the execution of a five-year extension of its current MVNO agreement which includes access to the Optus 5G network and future technologies.
42. In New Zealand we have seen this unwillingness to initially wholesale new technologies when 4G networks were initially rolled out. We would like to see a requirement on the network builders, possible through a condition attached to spectrum licenses, that 5G networks are offered at the Wholesale level, including MVNOs, from launch.

Final Comments

43. TUANZ welcomes the opportunity to provide the Government with this submission in regards to the preliminary findings as part of the Mobile Market Review. This paper provides a summary of feedback from our organisation that represents actual users of technology and digital communications. We have attempted to provide a succinct and clear enunciation of the views of our members.
44. We look forward to seeing the final report later in the year.

Contact

Craig Young
Chief Executive Officer
TUANZ

craig.young@tuanz.org.nz

021 488 188



tuanz

Telecommunication Users Association NZ
+64 4 815 8178 | office@tuanz.org.nz
P O Box 302 469, North Harbour, Auckland 0751