

Symbio Holdings Limited (Symbio) Submission to Commerce Commission New Zealand in relation to Review of Mobile Termination Access Service (MTAS)

Draft decision on whether to commence an investigation to determine whether MTAS should be omitted from Schedule 1 of the Act of the Telecommunications Act

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For the attention of

Toni Shuker,
Manager, Regulatory Rules and Compliance

Summary

Symbio Holdings Limited (Symbio), the parent company of Symbio Wholesale NZ Limited and Symbio Networks NZ Limited, appreciates the opportunity to comment on the Commerce Commission New Zealand (Commission) Discussion Paper on its reasonable grounds assessment in relation to commencing an investigation into omitting mobile terminating access service (MTAS) from Schedule 1 of the Act.

Symbio provides innovative communications platform solutions to enterprise and wholesale customers and global communication service providers in multiple Asia-Pacific regions. These solutions include:

- Communications Platform as a Service (CPaaS) – Providing voice and messaging capabilities and the ability to host and port phone numbers to global communication service providers. Examples of Symbio’s customers include Ring Central, Zoom and Twilio.
- Unified Communications as a Service (UCaaS) – Providing cloud-based enterprise calling and collaboration services to enterprise and government customers across the Asia Pacific, with direct integration into Microsoft Teams and Cisco call manager.
- Telecommunications as a Service (TaaS) – Providing cloud communications, mobile services and access services for wholesale customers for on-selling to business and consumer customers. Symbio operates its own cloud, data centre and fibre infrastructure in New Zealand, Australia, Malaysia and Singapore. Symbio’s services are highly dependent on the ability to interconnect our voice networks with other carriers, so our customers can communicate with people and businesses across New Zealand, Australia and the rest of the world.

Amongst the many services that Symbio offers to its customers is the management, on their behalf, of interconnection of voice calls with other carriers. Symbio, via its New Zealand based companies, operates a fixed network in New Zealand and is interconnected to all major mobile

and fixed networks. Symbio also operates a large interconnected voice network in Australia. Symbio's customer base includes global service providers, enterprise customers and telecommunications wholesalers. Generally, Symbio's customers pay separately for MTAS services (on a per minute basis), i.e. the service is not bundled with data services as is the case in the retail market. As referred to in the Commission paper, there is no alternative to paying MTAS charges to reach customers on any of the mobile networks. Consequently, the level and direction of MTAS costs is a critical factor in Symbio's business model and the viability of the services it provides to its customers. Symbio therefore proposes that the Commission not commence an investigation into omitting MTAS from Schedule 1 of the Telecommunications Act 2001 (the Act).

Assessment framework

The Discussion Paper has canvassed a number of the important developments and continuing trends that have occurred or been reinforced since the previous assessment in September 2020.

The MTAS service

Schedule 1 of The Act describes MTAS as:

Termination (and its associated functions) on a cellular mobile telephone network of any or any combination, of the following:

- (a) voice calls originating on a fixed telephone network:
- (b) voice calls originating on another cellular mobile telephone network:
- (c) short-message-service (SMS) originating on another cellular mobile telephone network

Symbio being a fixed network operator, is primarily concerned with part (a) of the description and this is where distortion of competition can most easily occur. For calls between mobile operators, costs can be more readily netted out as there is an exchange of similar traffic. However, for voice traffic it would be unwise to not include items (a) and (b) together in any decision.

See also our proposal for a proposed change to the MTAS service description on page 4 below.

Wholesale market for Voice services

As stated in section 3.19, the receiving party's MNO has monopoly power over access to its mobile subscribers. The calling party's network operator has no alternative but to purchase MTAS. And the receiving party's MNO has an ability set MTR's wherever they like. This puts fixed network operators at a severe disadvantage compared to MNO's and as the paper states there are no substitutes in the wholesale market

The paper does not discuss the nature of the market that is impacted by this situation. There are the fixed network operators such as Symbio but it also includes the enterprise customers, global service providers and business customers serviced by any fixed network operator. This is not an insignificant part of the market. Although we agree with the Commission that substitutes do exist for retail customers and that service choice is driven by more data capacity than voice in this market, other significant segments of the market should not be ignored.

An example of the impact of monopoly pricing by MNO's can be seen in the pricing of the mobile originating service. This service is required at the wholesale level when a customer of an MNO calls a Freephone service operated by a fixed network operator. In this situation the charge imposed by the MNO. The Freephone service provider has no option but to pay this charge so that the vast base of mobile customers can access freephone services that are provided by fixed network operators and are widely used by business.

Differences between Fixed Networks and Mobile Networks

MNOs do not charge themselves MTAS rates to terminate calls within their own network, they only incur traffic sensitive costs when supplying mobile voice termination to themselves. While MNOs charge each other MTAS, those charges largely cancel each other out over time to the extent traffic between MNOs is balanced. Therefore, it is likely that in practice only access seekers that do not have mobile networks contribute to MNOs' traffic insensitive costs through existing MTAS prices.

This puts those access seekers at a competitive disadvantage, particularly for customers that continue to pay non-zero retail prices for calling. MNOs can also be horizontally integrated – they operate mobile networks and also supply fixed voice services including calls terminating on their mobile networks. It would not be in the long-term interests of end users if MNO's recovered traffic insensitive costs from horizontally separate CSPs, while horizontally integrated businesses did not recover such costs from their customers.

Symbio does, however, agree that regulated prices for mobile voice services in the residential and small business segments are unlikely to have much impact on downstream retail prices. This is because, due to bundling with data services, the marginal retail price for most end users in these segments is zero, irrespective of the regulated price.

Symbio, therefore, encourages the Commission to consider that the setting of regulated prices for MTAS remains important to the objective of promoting competition in downstream markets, and to the long-term interests of end users more generally. In particular, careful consideration will need to be given to the likelihood of service providers recovering their costs, and the ability to invest in the changes in the technology, resilience and security expected from end users.

Market developments and trends

Symbio would like to highlight that although retail market developments have a major influence on the evolution and shaping of upstream wholesale markets, they are not the only considerations that the Commission should consider. There are additional market developments that have an important impact on price and non-price terms for MTAS services.

The first is that competition in segments of the market serving larger businesses (for example, government, enterprise and global communications service providers), has moved on a different trajectory to residential and small business. For larger businesses, voice services are often sold on a different basis to data services. This is because customers often require for their voice and data networks, different levels of security, redundancy, technology integration and operations support. The implication of this is that voice services for these market segments are not bundled together with data services and often remain priced separately on per-minute rates.

Second, the threat from bad actors has substantially increased and end users' tolerance for risk has decreased. This has required substantial investment in technology, resilience and security. These costs are a substantial part of the costs of providing voice interconnection services.

International Developments

There has been a recent review by the ACCC in Australia of the regulation of interconnected voice services including MTAS. Despite changes occurring since its previous review, the ACCC confirmed that the voice component of MTAS would continue to be regulated for the next 5 years.

Future state

Over the next five years, Symbio expects the continued overall decline in retail fixed voice services and migration to modern voice calling systems. However, Symbio's experience is that wholesale voice levels are standing up well, particularly voice calls to and from mobile networks.

Voice termination will remain an important service, and one where market power continues to exist. However, appropriate price and non-price terms and conditions are different today to what they were several years ago and will likely be different again in five years' time.

The markets for mobile services will both be impacted by the following trends:

- Increasing tendency for transactions to be conducted online, rather than by voice communication.
- Increasing use of cloud -based services including UCaaS (Unified Communications-as-a-Service) and CPaaS (Communications Platform-as-a-Service) applications by business.
- Decline and passing of consumer cohorts that adhere to fixed voice calling.

The effect of these trends will result in a greater proportion of retail call minutes via mobile services. By contrast we expect the wholesale termination voice market to remain relatively robust.

The trends that have been noted by the Commission are likely to continue. However, it is important to be very clear that the Commission has concentrated on trends at the retail level of the market, and has not adequately discussed trends at the wholesale level. The trend lines are not necessarily the same as indicated by the data provided above for Symbio's NZ business

Suggested Change to MTAS Service Description

We note that the description of the MTAS service in the Act includes a short-message-service (SMS) originating on another cellular mobile telephone network. However, it does not include application to person (A2P) messages that originate on a computer application and terminate on a mobile network.

Conclusion

In summary, Symbio has addressed the issues raised by the Commission in the Discussion Paper and argues in favour of the continuation of maintaining MTAS in Schedule 1 of the Act:

- that continued regulation of MTAS under Schedule 1 is necessary to best promote competition in relevant telecommunications markets for the long-term benefit of all end-users.
- recognising market and technology trends since the existing voice interconnection terms and conditions were set, but with a focus on the impact of those trends at wholesale level.
- facilitate fair, reasonable and non-discriminatory arrangements for any-to-any connectivity.

Symbio has provided a number of comments on the Discussion Paper for consideration by the Commission. Symbio looks forward to discussing these matters with the Commerce Commission team at a convenient time once they have reviewed our response.

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