Vodafone Submission

Mobile Market Study:

Cross submission on Preliminary Views paper

19 July 2019

Introduction

Thank you for the opportunity to provide cross submission on the Commission's preliminary views paper.

As Vodafone noted in our original submission, we agree with the Commission's analysis that consumers in the mobile market are "benefiting from an increasingly competitive market environment". This has resulted in prices well below the OECD averages across the board, wide and increasing 3G and 4G coverage, and plans tailored to meet the needs of all New Zealanders.

The market for high data plans is evolving quickly, with caps rapidly increasing or disappearing altogether. As a result, we are confident that these changes will address many of the lingering concerns about higher data plans that the Commission raises.

We support the Commission's preliminary view that no further intervention is required at this time, with the Commission's continuing to monitor the performance of the market. This will provide the stability and predictability needed as the MNOs begin to invest millions into the fifth generation of mobile technology.

Having reviewed the submissions made, and given the extensive consultation already undertaken since the review began in October 2017, we do not consider that any new information has been presented. The Commission, therefore, must not change its preliminary views.

Vodafone does make brief comments on submissions made by other parties to this consultation on the following topics.

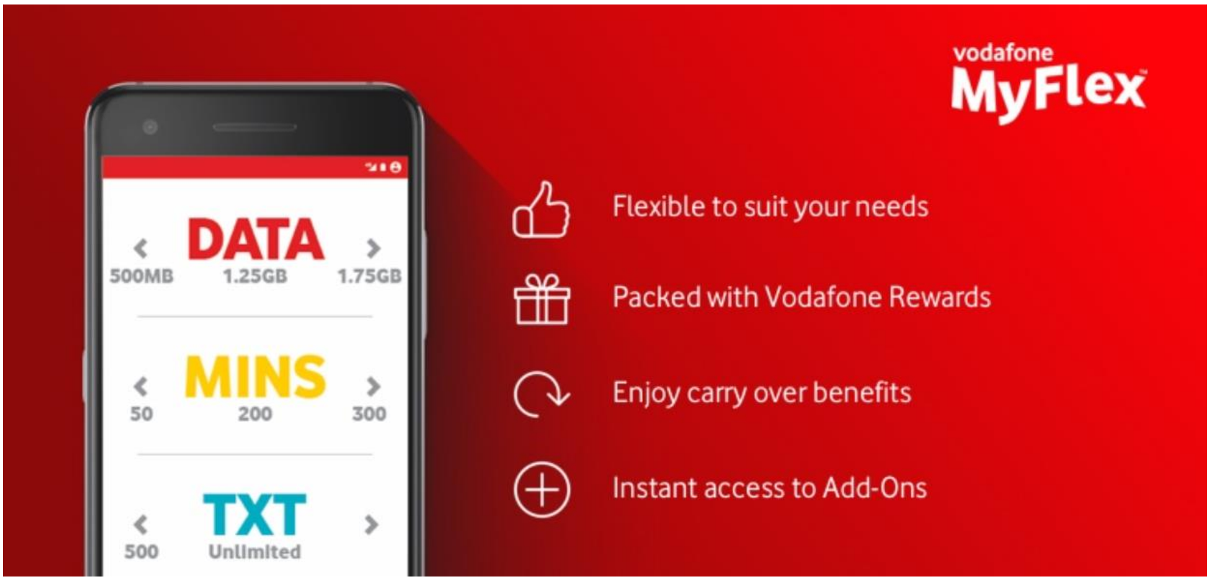
1. **Competition in the mobile market**
2. **Mobile coverage**
3. **Criticism of the MVNO market**

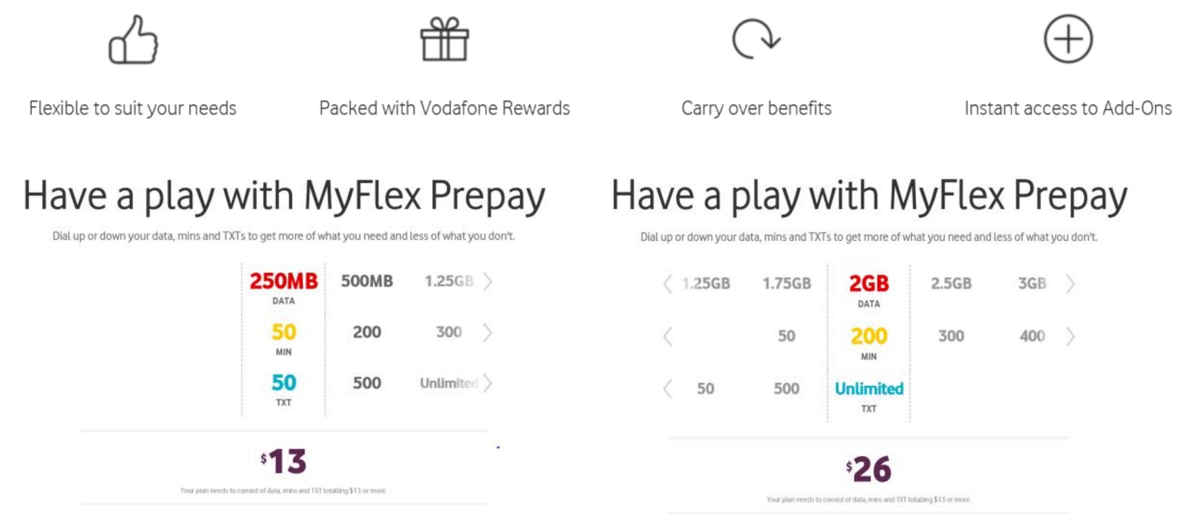
1. Competition in mobile occurs across all dimensions

BAINZ Consulting asserts that competitive choice is limited to brand, coverage, quality and customer experience, on the basis that “there is little pricing differentiation in price offerings” and that the minimum product offering price is $19. At the same time, they note that they gave no consideration to other bundles or promotions.

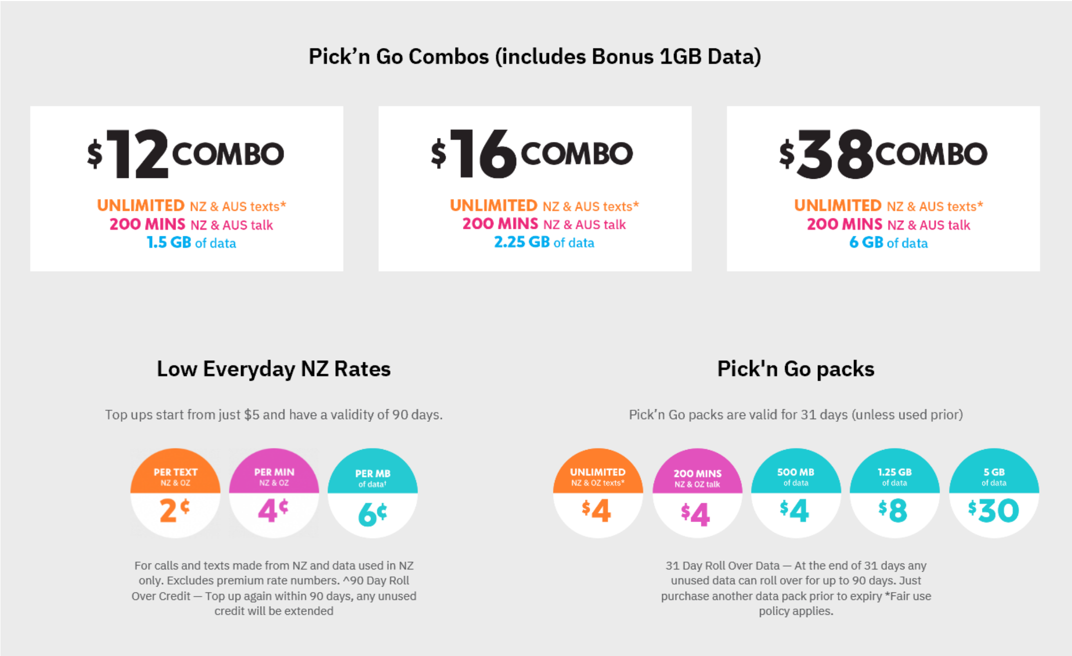
We disagree with BAINZ’s conclusions. Price is a key competitive differential between offerings across all areas of the market. A cursory look across our competitors’ websites demonstrates the significant array of price offers between providers. BAINZ’s analysis simply does not bear closer scrutiny.

As one example in the pre-pay market, Vodafone introduced My Flex Pre-pay in November 2016 where customers can dial up or down the amount of data, TXT and minutes on their Prepay plan, depending on how they like to keep in touch. This allows customers to manage their own mobile use, preferences and spending. Bundles start from $13 per month.





The Warehouse Mobile, an MVNO through 2Degrees, similarly provides significant flexibility:



As well as price, BAINZ analysis fails to consider competitive bundles and add-ons that deliver even greater value for customers. Some examples of how Vodafone differentiates its services include:

- **Content Passes** - providing endless data for favourite video, music, social or chat apps;
- **Data Sharing** – allowing families to manage and share data on a single plan;
- **International roaming –** $7 a day for Daily Roaming in over 100 destinations;
- **Vodafone Rewards** – Deals and exclusive experiences as a Vodafone customer; and
- **Netflix** – Offering free Netflix subscriptions as a Vodafone customer.

2. Mobile Coverage is good and improving

Chorus argue that New Zealand has low geographic mobile coverage (based on the OpenSignal analysis of 4G), and that this coverage reflects the inefficient use of scarce spectrum. We disagree.

OpenSignal does not measure coverage. Instead it measures the period that a 4G capable device is connected to 4G network relative to the 3G network. As covered by Spark in their submission, availability can be affected by numerous factors, few of which have anything to do with customer experience. OpenSignal themselves also emphasise that it is not a measure of coverage or the geographic extent of a network.

Mobile land coverage is increasing

It is well recognised that New Zealand's geography makes it comparatively challenging and expensive to deploy telecommunication services – both fixed and mobile. As a result, it has been necessary for the government to co-invest in rolling out both fixed and mobile next generation networks in rural areas through the UFB, UFB2, RBI and RBI2 programmes.

In arguing that this reflects inefficient use of scarce spectrum, Chorus conveniently ignores the Rural Connectivity Group (RCG). The RCG is a joint venture between Vodafone, Spark & 2degrees, which is currently building a new open access network in rural New Zealand.

All three mobile network operators will pool and share spectrum, network equipment and have one set of antennae on each tower using Multi Operator Core Network (MOCN) technology.

RCG will deliver new mobile and wireless broadband coverage to at least 30,000 rural homes and businesses, expand the current geographic coverage by 25%, add coverage to a further 1,000 kilometres of state highways and provide connectivity to at least 90 top New Zealand tourist destinations by December 2022.

Government policy design focusses on efficient spectrum use

The government continues to focus on ensuring that spectrum allocation delivers the widespread and efficient deployment of networks, and maximises the economic benefits for New Zealanders. This includes consideration of:

- allocating spectrum for different use cases;
- applying spectrum caps for contestable competition;
- setting aside spectrum for future entry;
- offering national management rights for Mobile Network Operators (MNOs) and regional licences for Wireless ISPs (WISPs);
- roll-out conditions to ensure efficient usage of spectrum; and
- conditions requiring the extension of existing networks.

Chorus notes that “[s]pectrum coverage remains an issue and could be better addressed through coverage obligations”. We do not agree; effective coverage obligations are already in place today. MBIE carefully set conditions on spectrum to ensure the optimal use through roll-out and use-it-or-lose it conditions.

Vodafone supports reasonable coverage obligations on spectrum. However, any spectrum conditions must balance a risk of speculative hoarding against a risk that overly onerous rollout conditions reduce competition. If the cost of meeting the obligations are too high it will be difficult for existing providers to compete, and even more so for potential entrants.

The government applied specific rollout conditions for the 700 MHz spectrum, which applied a sliding scale of obligations to acquirers of the spectrum. This includes both a targeted obligation to deploy 4G over 700 MHz spectrum in a minimum of 300 sites in rural areas, and an obligation to build new sites over the initial five year period. The number of sites and scale of the new build obligation was based on the total amount of spectrum acquired.

The government is currently developing the proposed rollout conditions for 3.5GHz spectrum that will be key for 5G. Draft MBIE views are that the spectrum will be divided and allocated with both national management rights (where a rollout condition will apply), and regional licences available for WISPs.

Despite this, Internet New Zealand argues that the current allocation regime risks suboptimal competitive outcomes, and its support for the WISPA NZ “Don’t Waste our Spectrum” campaign.

The delivery of mobile and wireless broadband to remote New Zealand (where it is recognised that low population density and challenging terrain make build complex) will best be served by a mixture of both national MNOs and also WISPs.

We believe Internet NZ's concerns are not justified for the following reasons:

- MBIE's proposed approach to 3.5 GHz spectrum will allocate spectrum between national operators (through management rights) and WISPs (through regional licences);
- MBIE's decision to limit the renewal of 1800MHz spectrum for the existing MNOs to allow for further entry; and
- Government targeted investment in rural wireless infrastructure through CIP recognises the complementarity between MNOs and WISPs in delivering rural broadband.

3. Criticism of current MVNO uptake fails to focus on market outcomes

A number of submitters express concern about the MVNO market in New Zealand. They focus on the low uptake of MVNO services and suggest that this is a market failure. But none can tie this back to any negative outcomes this produces for consumers.

As we discussed in our submission, Vodafone agrees with the Commission's conclusion that "there would need to be greater evidence of market failure to justify wholesale access regulation". Red Dawn's analysis shows the main reason for New Zealand's low MVNO uptake is due to the limited opportunities in a country of our size.

NERA, on behalf of Spark, identifies that no causal link between MNVO participation and consumer outcomes is established in the Red Dawn report. We agree with Spark's observation on the Red Dawn analysis that "*it sought to explore possible regulatory interventions, without a finding of market failure, a case for intervention, or a meaningful costs-benefit analysis of intervention.*"

No submitter has been able to bridge this gap by demonstrating any problem that low MVNO uptake creates for consumer outcomes, or how regulatory intervention would deliver end-user benefits. Instead several submitters argue for further regulatory intervention simply to support their own strategies to grow market share, despite the evidence that competition in the mobile market is already thriving and delivering significant benefits for New Zealanders.

We also consider that there are sufficient opportunities in the market as it currently exists for potential MVNOs with the right strategy. The Red Dawn report identifies that service innovation, and bundling strategies may be successful. We are unaware of any impediments for MVNOs if they chose to pursue these strategies.

We also support Trustpower's assertion that 'thick' MVNOs may add more to the New Zealand market. This is about potential MVNOs looking to build a long term relationship, rather than a short term transactional relationship. This would require a level of risk sharing and investment by both parties.

Two submitters suggest that the Commission should set a threshold for minimum MVNO percentage uptake, and intervene in the market if it is not achieved. For example, Nova Energy suggests that a regulatory backstop be prepared and introduced for MVNO services, that would require the

Commission to determine specific targets / milestones which if not met would trigger regulatory intervention.

We do not support this approach as it runs counter to competition. Nova Energy simply wants a free pass into the market. Existing MNOs would be punished with further regulation if they continue to successfully compete for customers. Alternatively, existing MNOs would be “rewarded” with no further regulation if they didn’t aggressively compete for customers and passively allowed MVNOs to acquire customers in a benign competitive environment. MVNOs are gifted customers without any suggestion how their introduction would improve end-user outcomes.

As the Commission notes in its paper, it intends to continue to monitor and evaluate the development of competition. These powers remain and are unchanged if the Commission in the future determines there is an issue in the wholesale mobile market.