

5 February 2016

Commerce Commission
44 The Terrace
PO Box 2351
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By email: telco@comcom.govt.nz

Dear Filomena

Review of the MTAS STD monitoring requirements – draft determination under section 30R of the Telecommunications Act

Thank you for the opportunity to comment on the proposed variation of the Mobile Termination Access Service Standard Terms Determination (the MTAS STD) under section 30R of the Telecommunications Act.

2degrees considers that the continued monitoring by the Commerce Commission of market developments, including on-net offers, is an essential role of the Commission, complementary to its function of promoting competition for the long term benefit of end users.

It is important to ensure such monitoring remains fit for purpose, particularly given the output of this monitoring informs Commission, Government and wider industry decisions.

The Commerce Commission has recently revised its monitoring regime for mobile markets, with data collected now including detailed breakdown of prepay, postpay and business segments on a bi-annual basis, as well as data on on-net offers in the market. 2degrees consider this revised regime represents a significant improvement to the monitoring of this sector.

In addition, 2degrees acknowledges challenges with the existing MTAS STD monitoring regime, including:

- The MTAS STD monitoring regime is limited in scope, only covering voice and SMS, and lacks flexibility to adapt to market developments. In contrast, the monitoring regime under section 9A is also able to monitor data and content developments.
- Challenges in revenue allocation methodologies, including achieving consistency across mobile network operators.
- Compliance cost issues in the completion of the MTAS monitoring reporting on a monthly basis.¹

While we consider the MTAS STD monitoring regime has played a valuable role, in light of these developments 2degrees agree it may be more appropriate for the Commission to now monitor on-net/off-net competition issues under its section 9A monitoring powers. This is likely to provide more meaningful data to the Commission and provide the Commission with greater flexibility to adapt to market developments.

¹ 2degrees has previously supported reducing these compliance costs, including by allowing sign-off of MTAS reporting by the CFO (rather than a requirement for a Director or CEO to certify compliance), reducing the frequency of the reporting from monthly to quarterly and more focussed monitoring of on-net trends.

As such 2degrees does not object to the removal of the requirement for mobile network operators to provide monthly information as specified under the MTAS STD subject to:

- The Commission continuing to monitor on-net trends under its section 9A powers.
- Section 9A monitoring occurs on a regular basis, with the ability for the Commission to step up quickly if potential competition issues are identified. We agree with the Commission that annual monitoring is likely to be insufficient in case intervention is required to stop anticompetitive practices.
- MTAS remaining a designated service under the Telecommunications Act. As set out in 2degrees' submission to the Commission on whether MTAS should remain a regulated service under Schedule 1 of the Act, MTAS remains a key wholesale input service for 2degrees and other market players, downstream retail markets remain highly concentrated and there are still strong commercial incentives on dominant players to raise rivals' costs, to the detriment of competition and ultimately end-users.

Please let me know if you have any questions regarding this response.

Yours sincerely

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Regulatory Policy Manager