

Reasons for the joint decision to launch a New Zealand-Australia market investigation into trans-Tasman mobile roaming

April 2011

Prepared by the Ministry of Economic Development of New Zealand and the Department of
Broadband, Communications and the Digital Economy of Australia (the Agencies)



Australian Government

**Department of Broadband,
Communications and the Digital Economy**

1. Introduction

On 28 April 2011, the New Zealand Minister for Communications and Information Technology, Steven Joyce, and the Australian Minister for Broadband, Communications and the Digital Economy, Stephen Conroy, announced their joint decision to launch a full market investigation into trans-Tasman mobile roaming.

Information on the progress of the market investigation and its outcomes will be made available online at www.dbcde.gov.au and www.med.govt.nz.

The launch of a full market investigation follows the release of a joint New Zealand-Australia discussion paper on trans-Tasman mobile roaming in May 2010. The paper concluded that for Australians and New Zealanders roaming across the Tasman, the transparency of prices was inadequate and the prices offered were relatively high.

2. Why the decision has been made

The decision to proceed to a full market investigation was based on the Agencies' analysis of information received from operators as well as consideration of the submissions received to the joint discussion paper and recent market developments.

A. Submissions to the joint discussion paper

The Agencies received 16 submissions to the joint discussion paper. The Agencies note that individual users and consumer groups broadly agree with the conclusions of the paper, including the preliminary conclusion that prices for trans-Tasman mobile roaming services are relatively high. In particular, the comments received also indicate that consumers are being adversely affected by the suspected problem in the market.

In contrast, the operators made clear in their submissions that they do not agree prices are relatively high. Operators argued that market forces have and will continue to deliver reduced prices for consumers for mobile roaming services and across the bundle of mobile services. One New Zealand operator did note however that the retail prices Australian operators charge their customers for roaming in New Zealand appear to be high. The Agencies' response to some of the critical comments made by operators of the price benchmarking presented in the discussion paper is at Section 3 below.

On balance, the Agencies consider that there is sufficient evidence to support the preliminary conclusion made in the joint discussion paper that prices for trans-Tasman mobile roaming services are relatively high.

B. Analysis of information received

The Australian and New Zealand governments sought and received information from mobile network operators in each country on the traffic, expense and revenue data associated with trans-Tasman mobile roaming.

The Agencies used the information provided by the operators to benchmark wholesale trans-Tasman roaming prices against estimated competitive wholesale prices. These estimates were based on national roaming services, mobile virtual network operator prices, and the most recent cost estimates released by the Body of European Regulators for Electronic Communications (BEREC). The Agencies concluded from

this analysis that the actual wholesale prices charged are materially in excess of the estimates used as benchmarks.

During the joint market investigation, the Agencies will examine if there are any reasons that could justify prices exceeding the estimated competitive prices to such a degree. As part of this process, the Agencies will consult with the operators and further refine the benchmarks used.

C. Recent market developments

The Agencies appreciate that some of the price changes seen in the market since the publication of the joint discussion paper, in particular from Vodafone New Zealand, have lowered trans-Tasman mobile roaming prices for consumers. However, overall the Agencies do not consider that the price changes undermine their preliminary conclusion that prices are relatively high.

This is primarily because while the Agencies note that some of the changes have resulted in price decreases for roaming customers, not all the changes are positive. For example:

- Prices have increased for VHA customers on '3' plans for outgoing voice calls.
- Telstra has increased its SMS prices.
- Telstra's standardisation of prices for outgoing voice calls has decreased prices for some customers but raised them for others.

Furthermore, some of the retail price comparators used for benchmarking in the joint discussion paper have also decreased since the release of the paper. For example, the newest cost-based price estimate for data (from BEREC) is significantly lower than the price estimate used in the discussion paper.

3. Consideration of comments made in submissions

Some of the submissions received in response to the joint discussion paper criticised the Agencies' benchmarking – including in relation to the bundles and the comparators used. These comments will be considered in the preparation of the draft decision that will be released, outlining the market definition, an assessment of competition in the market and options for joint action in the event that a market failure is determined to exist. However, the Agencies' preliminary response to those criticisms follows.

A. Bundles

The joint discussion paper presented benchmarks for a bundle of roamed voice calls, for a bundle of roamed voicemail messages, for a bundle of roamed SMSs, and for a bundle of roamed data. It also benchmarked an overall bundle of all four types of service, although this was possible only against non-regulated prices from other countries.

In their submissions, operators stated that a number of other factors should be taken into consideration in the bundles used for benchmarking, including other mobile services, data packs, traveller usage profiles and the proportion of post-paid versus pre-paid customers. While the Agencies' consider there are valid arguments for not taking these factors into consideration, where appropriate, the Agencies may re-examine these factors during the preparation of the draft decision.

In relation to the inclusion of all mobile services in the same bundle as international mobile roaming, the Agencies' current view remains that international mobile roaming is distinct from domestic services. The results of the surveys conducted by New Zealand MED provide support for this view. However, the Agencies will seek to consider during the market investigation the comments made by

operators on this aspect of the market definition, including in relation to the inclusion of possible substitutes.

B. Price benchmarking

In their submissions, operators made three main criticisms of the comparators used in the price benchmarking in the joint discussion paper. The Agencies' response to each is set out below.

i. The Agencies should have benchmarked against local pre-pay rates

Telecom New Zealand states that a good starting point would be to compare trans-Tasman roaming rates to standard domestic pre-pay rates. However, according to mobile operators, wholesale charges are the most significant factor in the price of retail roaming services. When benchmarking retail rates across countries, it is therefore desirable that there be some consistency in the underlying wholesale markets concerned.

ii. The Agencies should have adjusted the foreign regulated / estimated rates

In their submissions, 2degrees, Optus and Telecom New Zealand point out the need to take differences in economies of scale and variable inputs into consideration when comparing retail rates to foreign regulated or estimated rates. The Agencies consider this to be a valid point and will consider more refined adjustments to foreign comparators during the course of the market investigation. However the Agencies note that adjustments may actually result in more unfavourable comparisons for New Zealand and Australian operators. For example, adjustments may be needed to update Denmark's National IT and Telecom Agency's (NITA) estimates as they are now five years old.

iii. The Agencies should have converted comparators using purchasing power parity (PPP) exchange rates

Telstra argues that a PPP adjustment could have been used. The Agencies note that the utility of PPP exchange rates is not universally accepted by mobile operators¹. The Agencies also note that it is no easy matter to determine a PPP exchange rate for the eurozone set of countries (to which the eurotariff caps apply without further conversion) or for the EU27 (to which the Copenhagen and NITA estimates might be said to apply).

In any event, the Agencies note that the only comparator that would be significantly affected by a switch to PPP rates would be the comparisons with Singapore and, to a lesser degree, Australian comparisons with euro-based rates.

¹ For example, see Telecom New Zealand's submission to the New Zealand Commerce Commission dated 6 May 2009 (paragraphs 38-39).