

OPTIONS-STAGE REGULATION IMPACT STATEMENT

TRANS-TASMAN MOBILE ROAMING

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1. Background

1.1. Overview of Issue

International mobile roaming (IMR) services allow users of mobile devices to use those devices (and their associated telephone numbers) while abroad to make and receive voice calls, to make and receive SMS and to upload and download data.¹ Trans-Tasman Mobile Roaming (TTMR) services refer to those IMR services that allow for mobile roaming between Australia and New Zealand. While there have been recent price reductions for TTMR services in the order of 80 per cent, prices remain very high compared to prices for similar domestic services.

This Regulation Impact Statement (RIS) attributes drops of pricing largely to the threat of regulation announced in February 2013, as discussed below. Further, prices for IMR services have generally not moved downwards in line with domestic pricing patterns, resulting in an increasing gap between charges for domestic and IMR services. This is reflective of the trend for pricing of IMR services in other OECD countries.²

In February 2013, the then Prime Minister of Australia and the Prime Minister of New Zealand announced that Australia and New Zealand would empower their competition regulators to monitor markets for TTMR services, and, only where necessary, take coordinated regulatory action. Implementation of the agreement between Australia and New Zealand would represent Option 5 of this RIS.

As outlined above, the Australian mobile industry has introduced some price reductions for Australians travelling to New Zealand (and other popular destinations) since the Prime Ministerial announcement in February 2013. An Australian telecommunications analyst has stated that where prices for IMR services have been dropping, this has largely been as a result of the threat of regulatory intervention.³ Without any legislative schemes allowing for such regulation being implemented, it is expected that pressure on pricing will dissipate.

In the OECD's Recommendation of the Council on International Mobile Roaming Services, member countries determined 'to take the necessary steps to ensure effective competition, consumer awareness and protection, and a fair price level in international mobile roaming services'.⁴ It was also determined that where market dynamics are insufficient to produce reasonably competitive wholesale prices, member countries are encouraged to reach agreement between Members to regulate wholesale IMR prices.⁵

¹ New Zealand Ministry of Economic Development and the Australian Department of Broadband Communications and the Digital Economy, *Trans-Tasman mobile roaming discussion document*, May 2010, p.6, http://www.communications.gov.au/__data/assets/pdf_file/0008/127709/Trans-Tasman_mobile_roaming_discussion_document.pdf

² Unpublished OECD paper

³ Australian Financial Review, *Trade rules could lead to lower mobile roaming rates* http://afr.com/p/technology/trade_rules_could_lead_to_lower_9XT1VkJtLePyKTxg11sNxK accessed 22 November 2013.

⁴ OECD, *Recommendation of the Council on International Mobile Roaming Services*, 16 February 2012, C(2012)7, <http://acts.oecd.org/>

⁵ OECD, *Recommendation of the Council on International Mobile Roaming Services*, 16 February 2012, C(2012)7, <http://acts.oecd.org/>

The incoming government has assessed proposed policy measures relating to the pricing of TTMR services; in particular empowering the Australian Competition and Consumer Commission (the ACCC) to monitor markets for TTMR services and, if necessary, impose regulatory intervention. This RIS considers these options, assessing their regulatory impact and the expected benefits associated with their implementation.

1.2. History of inquiries into the pricing of TTMR services

A number of Australian Government investigations have brought the issue of IMR prices into focus in the Australian context. In 2005, the ACCC examined IMR services and concluded that the prices paid by Australian consumers appeared high.⁶ Subsequently, in 2009, the Australian House of Representatives Standing Committee on Communications conducted an inquiry into the issue and released the report 'Phoning Home: Inquiry into international mobile roaming' (the parliamentary inquiry).⁷ One of the recommendations of this report was that the government engage other countries in bilateral and multilateral negotiations to address high roaming costs,⁸ ensuring that countries with the largest number of Australian visitors be given priority.

New Zealand is the most popular destination for Australian travellers, with approximately 1.14 million Australians visiting the country in 2012-13; with 1.19 million New Zealanders visiting Australia over the same period.⁹ New Zealand is also an important economic partner for Australia. Australia holds over 60 per cent of total stock of foreign direct investment in New Zealand¹⁰ and represents the country's largest export market for both goods¹¹ and services.¹²

The Australian and New Zealand governments have as general objectives the promotion of regional integration as a positive force for economic good. It is in this context that each government has entered into, and continues to explore, regional trade agreements with a number of countries.

⁶ ACCC, *Mobile Services Review: International inter-carrier roaming*, 2005, p. 53, www.accc.gov.au/content/index.phtml/itemId/333898

⁷ Standing Committee on Communications, *Phoning Home: Inquiry into international mobile roaming*, March 2009, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=coms/mobileroaming/report.htm

⁸ IMR differs from domestic services in that the wholesale and retail providers are always in different countries, which limits the range of measures that policy makers and regulators may adopt to unilaterally reduce IMR costs for domestic customers. For further information see unpublished OECD paper.

⁹ Australian Bureau of Statistics, *3401.0 – Overseas Arrivals and Departures, Australia, Sep 2013*, tables 9 and 5 <http://abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3401.0Sep%202013?OpenDocument>, accessed 14 November 2013.

¹⁰ Statistics New Zealand, *International Investment Position – Stock by Country: March 2013*, http://www.stats.govt.nz/browse_for_stats/economic_indicators/balance_of_payments/investment-by-country.aspx, accessed 14 November 2013.

¹¹ Statistics New Zealand, *Overseas Merchandise Trade: June 2013*, <http://www.stats.govt.nz/~media/Statistics/Browse%20for%20stats/OverseasMerchandiseTrade/HOTPJUn13/omt-jun13-tables.xls>, accessed 14 November 2013.

¹² Statistics New Zealand, *International trade in services by country: Year ended June, 2006 to 2013* <http://www.stats.govt.nz/~media/Statistics/browse-categories/economic-indicators/balance-of-payments/international-accounts/int-trade-services-country-ye-jun-2006-13.xls>, accessed 14 November 2013.

Australia and New Zealand are linked by the Closer Economic Relations trade agreement, which is now being supplemented by work towards a Single Economic Market (SEM). This SEM work program has been characterised by the then Australian Prime Minister and the New Zealand Prime Minister in terms of a seamless market in which people and business can have a ‘domestic-like’ experience in either country.¹³

In May 2010, the then Australian Minister for Broadband, Communications and the Digital Economy and the then New Zealand Minister for Communications and Information Technology released a discussion document prepared by the then Department of Broadband, Communications and the Digital Economy (DBCDE) and the then New Zealand Ministry of Economic Development.¹⁴ This discussion document established that the state of the market for mobile roaming services between the two countries warranted a full market investigation.

At the November 2010 APEC Leaders meeting, the then Prime Minister gave international mobile roaming as an example of how business can be frustrated by trade barriers. The goal of removing international barriers for trade and travel underpinned the EU’s decision in 2007 to introduce regulation on public mobile telecommunications networks. One of its key objectives was to ensure that consumers do not pay excessive prices for EU-wide roaming services compared to competitive national prices, thereby contributing to the smooth functioning of the internal [EU] market.

In February 2011, the then Australian Prime Minister and the New Zealand Prime Minister made a commitment to work towards more competitive rates for TTMR services. The then DBCDE and its New Zealand counterpart, the Ministry of Business, Innovation and Employment (MBIE), undertook a joint investigation of the trans-Tasman wholesale and retail roaming markets (the trans-Tasman joint investigation) between April 2011 and February 2013. The trans-Tasman joint investigation considered traffic and revenue information provided by the two countries’ mobile operators for the years 2009-11. The data collected was from the established mobile carriers and did not include data analysis from mobile roaming resellers in Australia or New Zealand. To assist with the investigation, the then DBCDE engaged consultancy firm WIK-Consult to determine and prepare a report on the underlying costs that mobile operators face in providing TTMR services (the WIK report).¹⁵

In August 2012 the trans-Tasman joint investigation produced a draft report for public consultation. The draft report provided a proposed market definition, an assessment of competition in the supply of TTMR services, and a range of options for addressing market and regulatory failure.¹⁶ The analysis in the draft report shows that prices and margins in the trans-Tasman roaming wholesale and retail markets have been trending

¹³ Productivity Commission Final Report, Strengthening trans-Tasman Economic Relations, November 2012, p.2.

¹⁴ New Zealand Ministry of Economic Development and the Australian Department of Broadband Communications and the Digital Economy, *Trans-Tasman mobile roaming discussion document*

¹⁵ WIK-Consult, *Trans-Tasman Roaming Service Costs*, 30 May 2012, http://www.communications.gov.au/__data/assets/pdf_file/0017/157013/Trans-Tasman_Roaming_WIK_Study_-_Public_version.pdf

¹⁶ Department of Broadband, Communications and the Digital Economy and the New Zealand Ministry of Business, Innovation and Employment, *Trans-Tasman Roaming Draft Report*, August 2012, http://www.communications.gov.au/__data/assets/pdf_file/0015/157011/Trans-Tasman_Roaming_Draft_Report.pdf

down since 2009 (particularly for data roaming). The draft report concluded that the regulatory threat posed by the trans-Tasman joint investigation has been a key factor in the emergence of reduced prices and margins in each country's wholesale market. These reductions coincided with the joint investigation. Although other minor factors, such as service alternatives, existing ex-ante regulatory frameworks and market entry and market rationalisation, may have contributed to the reductions, they are unlikely to have been sufficient alone.

The draft report concluded that the downward trend in wholesale prices and margins would likely cease following the conclusion the investigation if the governments are not able to maintain a credible regulatory threat. The then DBCDE and MBIE consulted on the draft report, receiving a total of seventeen submissions in relation to the draft report, including submissions from each of the major Australian and New Zealand operators in the TTMR market, consumer advocacy groups in each country, the Australian Telecommunications Industry Ombudsman, and a number of interested citizens.¹⁷

A final report was prepared giving consideration to these submissions. It reasserted the conclusion reached in the draft report. The final report was released by the then Minister for Broadband, Communications and the Digital Economy. At the same time, a Regulation Impact Statement (the previous RIS) was published assessing the regulatory impacts implementing of the recommendations of this report.

The incoming government has assessed the recommendations of the final report of the trans-Tasman joint investigation and has prepared a new RIS (this document) to this effect. The new RIS updates the previous RIS, taking into account industry developments since February 2013, and the new Government's policy for regulatory impact analysis (including the quantification of regulatory costs and offsets).

¹⁷ Visit http://www.communications.gov.au/mobile_services/mobile_roaming/trans-tasman_mobile_roaming for copies of the submissions.

2. Problem

This Regulation Impact Statement assesses three main problems for the pricing of TTMR services:

1. Despite recent price reductions, pricing in markets for TTMR services has generally remained high
2. The inability of this high pricing to be rectified in the current marketplace
3. The inability of this high pricing to be rectified using the current regulatory regime

2.1. *Problem One: High pricing in markets for TTMR services*

Consumers and business travellers moving between Australia and New Zealand once faced very significant charges for TTMR voice, SMS and data services across the board. In general, over the course of the trans-Tasman joint investigation, prices for TTMR services have trended down recently from a very high base. The trans-Tasman joint investigation concluded that wholesale and retail margins in the TTMR market are not reflective of the cost of providing the roaming services. It seems margins vary significantly amongst roaming providers.

Since the release of the final report of the trans-Tasman joint investigation, there have been further price reductions for TTMR services in the order of 80 per cent. Nonetheless, prices for TTMR services generally remain high, especially in comparison to equivalent domestic services. This comparison is especially evident in the effective cost to consumers of acquiring domestic services, in spite of headline rates. The difference between headline rates and effective costs for domestic consumers is due to the bundling of calls, SMS and data services and the difference between actual spend and ‘included value’ for these services, which is often at least an order of magnitude.

2.1.1. Margins on TTMR services

As part of the trans-Tasman joint investigation, the Australian and New Zealand governments collected wholesale pricing information from mobile network operators in TTMR markets (on a confidential basis) and engaged a consultant (WIK-Consult) to estimate the costs to operators of providing wholesale and retail TTMR services. The analysis was based on a number of data assumptions related to TTMR charges and markets, with information being sourced from Telstra, Optus and Vodafone in Australia and NZ Telecom, Vodafone NZ and 2degrees in New Zealand.

The trans-Tasman joint investigation estimated approximate wholesale margins for TTMR services using the wholesale pricing information and WIK-Consult’s estimates of wholesale costs. The trans-Tasman joint investigation found a distinct downward trend in wholesale margins between 2009 and 2011. While these margins were very high in 2011, they had fallen significantly from 2009 estimates.

The trans-Tasman joint investigation also estimated approximate margins for TTMR retail services using retail pricing information and the home networks’ total expenses. The trans-Tasman joint investigation revealed differing trends for Australian and New Zealand home networks. In the case of Australian home networks, the trans-Tasman

joint investigation observed that wholesale margins had decreased significantly between 2009 and 2011, while retail margins had somewhat increased.

The ability of the Department of Communications to conduct ongoing analysis of the margins for TTMR services is limited. This is due to the complexity of gathering information on costs and wholesale pricing, especially given the Department's inability to require carriers and carriage service providers to produce this information. As a result, this RIS does not contain information on margins beyond the end of the joint trans-Tasman investigation in early 2013. Margin analysis for TTMR services would more readily be a function of the ACCC. This is because the ACCC currently undertakes significant record-keeping, monitoring and reporting functions for the telecommunications sector under the *Competition and Consumer Act 2010*. However, as discussed in 2.3.1 below, and further in Options 2 and 5, the ACCC's powers do not currently extend to the information required to monitor markets for TTMR services.

2.1.2. Current retail prices for TTMR services

While the current pricing of TTMR services may in some cases appear comparable to domestic services, TTMR services (and IMR services more generally) are almost always not included in caps or included value. This means that whilst the effective rate for domestic services will often be significantly lower than the headline rate, the effective rate for roaming services will often be the same as the headline rate.

A notable exception to this for roaming services is the Vodafone prepaid service selected for comparison in Table 1. While headline prices are \$5.74 per minute to make calls and \$3.50 per minute to receive calls or to send an SMS, these are drawn from the prepaid recharge's included value. The included value is significantly higher than the actual spend (e.g. a \$49 recharge includes \$350 in included value).

Table 1 provides current headline rates for roaming services offered by the three major Australian operators for both postpaid and prepaid services. However, the headline pricing of TTMR services may be offset by travel packs that may be purchased for roaming in New Zealand Table 2 provides information on these travel packs.

Table 1: Headline roaming prices for voice, text and data – Major Australian operators

Service Type	Telstra	Optus	Vodafone
Call within New Zealand	\$1.50/minute (postpaid and prepaid)	\$1.00/minute (postpaid and prepaid)	\$1.00/minute (postpaid) \$5.74/minute (prepaid)
Call to Australia	\$1.50/minute (postpaid and prepaid)	\$1.00/minute (postpaid and prepaid)	\$1.00/minute (postpaid) \$5.74/minute (prepaid)
Calls to another country	\$1.50/minute (postpaid and prepaid)	\$1.00/minute (postpaid and prepaid)	\$1.00/minute (postpaid) \$5.74/minute (prepaid)
Receive calls	\$1.50/minute (postpaid and prepaid)	\$1.00/minute (postpaid and prepaid)	\$1.00/minute (postpaid) \$3.50/minute (prepaid)
Send SMS	\$0.75/SMS (postpaid) \$0.65/SMS (prepaid)	\$0.50/SMS (postpaid and prepaid)	\$0.75/SMS (postpaid) \$3.50/SMS (prepaid)
Receive SMS	\$0.00	\$0.00	\$0.00
Data	\$3.00/MB (postpaid and prepaid)	\$0.50/MB (postpaid and prepaid)	\$10.24/MB (postpaid) \$51.20/MB (prepaid)

Prices as advertised on respective company websites as at 28 January 2014, with the exception of Telstra's voice call pricing, which commences on 24 March 2014. Roaming services are generally billed in addition to domestic plan or recharge costs. However, for an exception, see Red Roaming in Table 2 which charges for usage from domestic inclusions, at a flat daily fee. Further, unlike with most roaming headline rates, the headline rates selected for Vodafone's prepaid service are billed from the domestic prepaid credit cap, which will reduce the effective costs to consumers

Table 2: Roaming travel packs for voice, text and data – Major Australian operators

Pack	Offer	Effective Rate
Telstra		
International Casual Traveller Data Packs (Postpaid)	An allowance is allocated for international roaming data. These packs vary between \$29 for 100MB and \$350 for 1.5GB. Multiple packs may be purchased each month.	\$0.29-\$0.23/MB
International Roaming Browse Plus Packs (Prepaid)	As above, but the available packs are between \$29 for 100MB and \$160 for 600MB.	\$0.29-\$0.27/MB
International Frequent Traveller Data Plans (Business Postpaid)	An allowance is allocated for international roaming data, with a six month minimum commitment. These packs vary between \$29 for 200MB and \$350 for 3GB. One pack per month.	\$0.15-\$0.11/MB
International Roaming Voice Plans (Business Postpaid)	An allowance is allocated for international roaming calls and SMS, A discount off headline call and SMS roaming rates is also included. These packs are \$15 for \$10 of credit and a 10% discount, and \$100 for \$90 of credit and a 20% discount.	Reduces the effective rate for calls and SMS by 10-20%.
Optus		
Travel Pack (Postpaid)	Unlimited incoming and outgoing calls, unlimited SMS, 50MB of data per day. The included data is spread across the entire duration of the travel pack (e.g. a five day travel pack provides 250MB for use cumulatively over five days rather than 50MB for each of the five days).	Cost: \$10/day: with effective included data rate of \$0.20/MB ; and unlimited calls and SMS
Vodafone		
Red Roaming (Selected Postpaid Plans – new plans introduced in late 2013)	Use domestic calls, text and data inclusions. Cost: \$5/day. Eligible plans include unlimited calls and data and 1.5GB-5GB of data.	Cost: \$5/day + domestic data rates (\$0.03-0.017/MB) ; with unlimited calls and SMS
Roaming Data Add-on (Postpaid)	An allowance is allocated for international roaming data. These packs vary between \$25 for 500MB and \$75 for 1.5GB. One pack per month. Excess data after consuming the data in an add-on is significantly cheaper than the PAYG rate.	\$0.05/MB for included data \$0.50/MB for excess data

Prices as advertised on respective company websites as at 28 January 2014.

2.1.2.1. *Developments in the pricing of TTMR services since the release of the final report of the trans-Tasman joint investigation*

Retail pricing for some TTMR services has decreased significantly in 2013, in the order of 80 per cent. It must be noted that these price reductions are not available to all of the carriers' customers. For example, Vodafone's 'Red Roaming' offer is only available to new postpaid customers in the top brackets of plan pricing (\$50 or higher per month). In addition, Optus' Travel Pack is only available to postpaid customers. Further, many of the roaming bundle packs offered by all three carriers are only useful for low to moderate data users, as packs for higher level data users are either not available (forcing users on to expensive PAYG/excess rates) or carry significant costs themselves.

To date, customers of MVNOs have not seen reductions in the retail pricing of TTMR services comparable to the carriers' price reductions. This is likely due to MVNOs being price-takers from their domestic carrier at existing headline wholesale rates.

Tony Simmons, a telecommunications consultant who has helped in the negotiation of IMR agreements, has noted that trends to decrease prices for IMR services were likely to continue if the threat of regulation remained.¹⁸

2.1.3. *Retail prices for roaming services compared to domestic services*

Despite the price reductions discussed above, retail prices for TTMR services are still considerably higher than retail prices for domestic services. Tables 1 and 2 above outline current pricing of TTMR services. However, there is a significant variation in the retail prices charged for roaming by the major service providers as well as newly emerging substitutes.

2.1.3.1. *Retail prices for domestic mobile services*

Table 3 provides current headline rates for domestic mobile services offered by the three major Australian operators for both postpaid and prepaid services. Prices for domestic services vary depending on the package that consumers opt for. In some cases, the number of calls and SMSs are not limited. In order to provide a reasonable comparison across operators, we have selected similar upfront spends for each. Table 4 provides information on domestic add-on packs for data and international calls (for comparison with the roaming packs listed at Table 2). Unlike for most roaming offers in Table 1, the effective costs of services listed in Table 3 are substantially lower than the headline retail prices listed in the table. This is because consumers, both postpaid and prepaid, generally receive 'included value' well in excess of the cost of the postpaid plan per month, or the cost of prepaid recharge.

¹⁸ Australian Financial Review, *Trade rules could lead to lower mobile roaming rates*
http://afr.com/p/technology/trade_rules_could_lead_to_lower_9XT1VkTlePyKTxgl11sNxK.

Table 3: Headline retail prices for domestic services for voice, text and data – Major Australian operators for selected plans

Service type	Telstra*	Optus**	Vodafone***
Call within Australia	\$0.99/minute +\$0.40 connection (postpaid) \$0.89/minute + \$0.39 connection (prepaid)	Unlimited (postpaid) 450 minutes per recharge; headline \$0.89/minute + \$0.39 connection (prepaid)	Unlimited (postpaid) \$0.90/minute plus \$0.40 connection fee (prepaid)
Call to New Zealand****	\$0.79/minute (to mobile) or \$0.34/minute (to fixed line) + \$0.40 connection (postpaid) \$3.49/minute + \$0.39 connection (prepaid)	\$0.60/minute (to mobile) or \$0.30/minute (to fixed line) + \$0.35 connection (postpaid) 450 minutes per recharge; headline \$2.00/minute + \$0.39 connection (prepaid)	\$2.20/minute + \$0.38 connection (postpaid) \$4.00/minute + \$0.40 connection (prepaid)
Receive call	\$0.00	\$0.00	\$0.00
Send SMS within Australia	Unlimited	Unlimited	Unlimited
Send SMS to New Zealand****	\$0.50 (postpaid) \$0.35 (prepaid)	\$0.50 (postpaid) \$0.35 (prepaid)	Unlimited (postpaid) \$0.35 (prepaid)
Receive SMS	\$0.00	\$0.00	\$0.00
Included Data	1.5 GB (postpaid) 800MB (prepaid)	2 GB (postpaid) 2.5GB (prepaid)	2.5GB + bonus 2.5GB for first 6 months (postpaid) 1GB (prepaid)
Excess Data Rate	\$0.10/MB (postpaid) \$2.00/MB (prepaid)	\$0.0125/MB billed per 800MB (postpaid) \$2.00/MB (prepaid)	\$0.10/MB (postpaid) \$2.00/MB (prepaid)

Prices as advertised on respective company websites as at 28 January 2014.

*Telstra Postpaid: Every Day Connect BYO \$60 plan with \$800 monthly call allowance. Minimum 12-month term. Telstra Prepaid: \$50 30 day recharge on Telstra Pre-Paid Cap Encore.

**Optus Postpaid plan: \$65 My Sim plan with unlimited domestic calls and SMS. 24-month contract.

Optus Prepaid plan: \$50 28 day recharge on Optus Prepaid Social Plan.

***Vodafone Postpaid plan: \$65 Red plan with unlimited domestic calls and SMS. This is a month-to-month plan. Vodafone Prepaid plan: \$50 28 day recharge on Vodafone Prepaid Cap.

**** Generally, customers are billed separately for international calls and SMS made and sent from Australia.

However, customers of the selected Telstra prepaid service use their prepaid cap value for international calls and SMS. Customers of the selected Optus prepaid service use their included minutes to call New Zealand. Customers of the selected postpaid and prepaid Vodafone services use their included cap value for international calls and SMS.

Table 4: Domestic add-on packs– Major Australian operators

Pack	Offer	Effective Rate
Telstra		
Data Packs (Postpaid)	An allowance is allocated for domestic data. These packs vary between \$5 for 250MB and \$60 for 8GB. One pack per month.	\$0.02-0.007/MB
Pre-paid Browse Plus Packs (Prepaid)	As above, but for prepaid. These packs vary between \$5 for 30MB and \$59 for 4GB. 30 Day expiry.	\$0.17-0.014/MB
International Connect Pack	An allowance is allocated for international calls and SMS. Either \$10 for \$40 of international value, or \$30 for \$150 of international value. One pack per month.	Reduces the effective rate for included calls, connection fees and SMS by 75-80%.
Optus		
Prepaid Top Ups (Prepaid)	An allowance is allocated for domestic data. These packs vary between \$5 for 500MB and \$20 for 2GB. 30 day expiry.	\$0.01/MB
	A \$10 top-up is also available providing reduced international call rates to countries including New Zealand.	\$0.167/minute
Vodafone		
Vodafone Add-on month to month (postpaid)	An allowance is allocated for domestic data. These packs vary between \$10 for 500MB and \$30 for 2GB. One pack per month.	\$0.02-\$0.015/MB
Vodafone Add-on 12 months (postpaid)	As above, but 12 month commitment required. These packs vary between \$10 for 1GB and \$55 for 8GB.	\$0.01-\$0.007/MB
Vodafone Add-on (prepaid)	An allowance is allocated for domestic data. Either \$5 for 150MB or \$8 for 350MB. 30 day expiry.	\$0.03-\$0.02/MB
Talk International (postpaid)	An allowance is allocated (in minutes) for calls to select international locations (including New Zealand). These packs vary between \$5 for 50 minutes and \$15 for 200 minutes. Once the included minutes for a month expire the international call rates are reduced by 25% from the standard rate. One pack per month.	\$0.10-\$0.075/minute for included calls. Reduces rate for further calls by 25%.

Prices as advertised on respective company websites as at 28 January 2014.

2.1.3.2. Voice calls comparison

Comparison of domestic and roaming calls is often difficult given the various products, bundles and consumer preferences. One way is to compare the ‘dollar headline’ rates (i.e. between Tables 1 and 3), which are the advertised rates per minute. Another method would be to undertake analysis of ‘dollar effective rates’, which are based on the total number of minutes that customers can utilise given their monthly ‘included value’ of their bundle or package. In other words, ‘dollar effective rates’ are based on a customer extracting maximum value in calls from their plans.

However, what matters from consumers’ perspective is their assessment of the likely use of their mobile when roaming in terms of the number and length of phone calls. For example, for an occasional mobile roaming user, calling within New Zealand from an Optus postpaid service is \$1.00 per minute (Table 1). The same phone call made from Australia to New Zealand is \$0.60 per minute to a mobile or \$0.30 per minute to a landline + a \$0.35 connection fee (Table 3), which is cheaper than the roaming call, notwithstanding any differences in the costs of providing these services. To the extent that consumers’ use of roaming is relatively limited, headline rates are a good indicator of differences in domestic and roaming charges. However, for ‘heavy’ users, effective rates may be more appropriate for analysis.¹⁹

For example, when customers purchase services from set out in Table 3, they pay a monthly access fee for postpaid services, or pay a prepaid recharge fee for which they receive a bundle of services, comprising calls, texts and data usage with an ‘included value’ that is significantly higher than the monthly fee (with further complication arising from call and SMS value often being unlimited). Because services are bundled together in this way, it is not possible to determine precisely the effective call rate for each plan.

On the Telstra Every Day Connect postpaid plan set out in Table 2, a customer pays a \$60 monthly access fee in return for up to \$800 worth of calls. At the advertised call rate, the connection fee means that the effective call rate will depend on whether a consumer makes a small amount of long duration calls, or a large amount of short duration calls. Taking the range of call duration into account, this provides allows for customers to make between 575 one-minute calls and one 807-minute call,²⁰ representing an effective rate of between approximately \$0.074 and \$0.104 per minute. As this compares the headline rate to the entire monthly cost of the service, this effective rate would be lower if the fact that data and SMS services are also provided as part of this monthly spend was taken into account.

If the same calls were made whilst roaming in New Zealand, these calls would cost the Telstra customer between \$863 and \$1211, no matter the destination country of these calls. By comparison, if the same calls were made domestically from Australia to New

¹⁹ In determining the effective rates paid by a customer, the likely effective rate paid by a customer who uses the entire value of the cap has been used as a proxy. In order to test whether international mobile roaming prices and domestic prices are comparable, the analysis considers the cost of the usage of the maximum value of the capped plan selected in Table 3 against the cost of the same usage profile for international mobile roaming services while a customer of that plan.

²⁰ This does not include calls between 7pm and 7am, which are unlimited.

Zealand, these calls would cost the customer between approximately \$275 and \$684.²¹ The actual cost to the customer for these calls made from Australia to New Zealand may be reduced by purchasing one of the International Connect Packs listed in Table 4.²² Further, if the same calls were received (instead of made) whilst roaming in New Zealand, these incoming calls would also cost the customer between \$863 and \$1211, whereas the same incoming calls would be free if received in Australia, whether or not they originated domestically.

Optus' postpaid \$65 My Sim Plan includes unlimited call value within Australia. The critical information summary states that this spend is apportioned to \$40 providing unlimited call value (with the remaining spend apportioned to the data cap).²³ To draw a comparison on effective call rates, the next cheapest available plan in the same series of plans, the \$40 My SIM plan, provides 500 minutes at an apportioned cost of \$25 per month.²⁴ This provides an effective call rate of \$0.05 per minute.²⁵

If 500 minutes of calls were made whilst roaming in New Zealand, this would cost the customer \$500, no matter the destination country of these calls. 500 minutes of calls made from Australia to New Zealand would cost the customer between \$150 and \$475, depending on both the duration of these calls (taking into account the connection fee that applies for each call) and whether they are made to New Zealand fixed line or mobile numbers.²⁶ Further, if 500 minutes of calls were received (instead of made) whilst roaming in New Zealand, these incoming calls would also cost the consumer \$500, whereas the same incoming calls would be free if received in Australia, whether or not they originated domestically.

Similarly, Vodafone's \$65 Red postpaid plan provides unlimited call value within Australia. Whilst in New Zealand, the customer would pay \$5 per day for unlimited calls whilst roaming for that day. Notably, unlike the other carriers, this means incoming calls whilst roaming are not individually charged. However, Red roaming may only be used for 45 days per year, and is not available to existing customers, prepaid customers, or new customers on plans of less than \$50 per month. Standard roaming prices (and travel packs) must be used outside of these conditions.

For a comparison of roaming rates outside of the Red Roaming offer, the next cheapest plan that does not include unlimited call value, Vodafone's \$45 plan has been selected, which includes \$700 of value. Call rates for this plan are \$0.98 per minute, with a \$0.40 connection fee. Taking into account the range of call duration and the resultant connection fees, the \$700 of included value allows a customer to make between 507

²¹ This range also takes into account the variance depending upon whether calls are made to domestic or fixed-line numbers in New Zealand, which are priced differently (see Table 3).

²² It is also noted that the Telstra prepaid service selected in Table 3 includes international calls in the cap value for the recharge, which may represent better value for these services than the postpaid plan selected.

²³ [https://smb.optus.com.au/opfiles/Shop/All/cis/Cis%20Documents/1391495_CIS_\\$60_My%20SIM_Plan%20Promo_0913.pdf](https://smb.optus.com.au/opfiles/Shop/All/cis/Cis%20Documents/1391495_CIS_$60_My%20SIM_Plan%20Promo_0913.pdf)

²⁴ [https://smb.optus.com.au/opfiles/Shop/All/cis/Cis%20Documents/1391494_CIS_\\$35_My%20SIM_Promo_0913.pdf](https://smb.optus.com.au/opfiles/Shop/All/cis/Cis%20Documents/1391494_CIS_$35_My%20SIM_Promo_0913.pdf)

²⁵ If an effective rate could be determined for the \$60 plan, this would likely be a lower effective rate than the \$35 plan, following the general trend in mobile pricing that more expensive plans provide cheaper effective call rates.

²⁶ We note that the Optus prepaid service selected in Table 3 includes calls to New Zealand in the call minutes for the recharge, which would represent significantly better value for these services than the postpaid plan selected.

one-minute calls and one 713-minute call, representing an effective rate of between approximately \$0.063 and \$0.089 per minute.

If the same calls were made whilst roaming in New Zealand, these calls would cost the Vodafone customer between \$507 and \$713, no matter the destination country of these calls. If the same duration of calls were made from Australia to New Zealand, these calls would cost the customer between approximately \$1116 and \$1840 at the headline rates, depending on the duration of these calls (taking into account the connection fee that applies for each call). However, the actual cost to the customer of international calls made from Australia is significantly lower, as this is deducted from their included \$700 of value, rather than charged separately. The cost of these international calls may also be significantly further reduced by purchasing one of the Talk International packs listed in Table 4. Further, if the same calls were received (instead of made) whilst roaming in New Zealand, these incoming calls would also cost the customer between \$507 and \$713, whereas the same incoming calls would be free if received in Australia, whether or not they originated domestically.

The difficulty of drawing comparisons on call costs (due to either large caps or unlimited included calls) shows the developing trend toward mobile plans being priced based on the volume of included data rather than individually charged phone calls. This presents a growing gap between the effective cost of domestic calls versus the effective cost of roaming calls, especially between in-country calls in both circumstances.

Importantly, a large additional cost for consumers roaming in New Zealand results from the fact that TTMR services have charges for incoming calls. By comparison, none of the domestic services selected in Table 3 above charge for incoming calls, whether or not these calls originate from Australia or New Zealand.

In addition, close but not perfect substitutes to roaming services provided by the major carriers (see discussion below) have added to competitive pressures in the market in favour of consumers. For example, Woolworths Global Roaming SIM, RoamingSIM and TravelSIM all offer substantially lower per minute mobile roaming rates (of between \$0.70-86 per minute and no connection fee), which are competitive with the three carrier's roaming rates.

While information is not available on the market shares for mobile roaming of the more traditional service providers and the newly emerging competitors, the price signals are indicative of an evolving and dynamic market suggesting that market forces are not insignificant in delivering lower roaming prices for TTMR users.

Nevertheless, there are aspects of the roaming services that appear less competitive in the case of the major three providers. For example, unlike in the domestic context, TTMR customers must not only pay for the calls they make but also for the calls they receive. Therefore, calls received represent a considerable cost to the roaming customer.

There are alternative roaming providers, which are close but not perfect substitutes to the traditional roaming providers that charge lower costs for receiving phone calls from Australia while roaming in New Zealand. For example, the Woolworths Global Roaming SIM charges \$0.58 per minute for an incoming call (with the option to receive calls to an existing mobile number by paying a small monthly fee). TravelSIM offers

zero charge to receive phone calls while roaming in New Zealand (the customer purchases a new SIM and is provided with a new mobile number).²⁷

Woolworths Roaming and TravelSIM offer rates that are competitive with the major roaming providers' headline rates, notwithstanding them being not perfect substitutes since use of their services requires a new SIM, a new mobile number or keeping the traveller's existing mobile number which may result in additional costs (see discussion below on the Woolworths Global Roaming SIM). Table 5 builds on Table 1, comparing headline roaming rates between the three carriers and these substitute services.

Table 5: Roaming call headline rates within New Zealand – substitute services (Global SIMs) versus carrier (postpaid only)

	Telstra	Optus	Vodafone	Woolworths	TravelSim
Call within New Zealand	\$1.50/minute	\$1.00/minute	\$1.00/minute	\$0.70/minute	\$0.89/minute
Call to Australia	\$1.50/minute	\$1.00/minute	\$1.00/minute	\$0.70/minute	\$0.89/minute
Calls to another country	\$1.50/minute	\$1.00/minute	\$1.00/minute	Varies	Varies
Receive calls	\$1.50/minute	\$1.00/minute	\$1.00/minute	\$0.58/minute	\$0.00

Prices as advertised on respective company websites as at 28 January 2014, with the exception of Telstra's voice call pricing, which commences on 24 March 2014.

However, it must be strongly emphasised that these substitute services generally do not have travel packs available to the consumer for call value in New Zealand, such as with Optus and Vodafone (see Table 2) which include unlimited roaming call value at a daily rate. Further, the cost of receiving calls for the substitute services in Table 5 would be increased if the user chooses to forward their domestic phone number to the substitute service (in order to be contactable overseas using that number). Substitute services for roaming often require the user to manually select the provider's preferred network partner for the country they are in, or they will be subject to higher rates.²⁸ Finally, the cost of data services using the substitute services in Table 5 may mean that these services are an affordable overall solution for the customer (see discussion below on data pricing of substitute roaming services).

²⁷ See <http://www.travelsim.net.au/Rates/>

²⁸ <http://www.woolworthsglobalroaming.com.au/Info/Rates.aspx>

The analysis shown above for the trans-Tasman roaming market suggests that:

- estimated wholesale and retail margins continue to trend lower, although it is not clear what constitutes a reasonable ‘profit margin’ or return on investment for roaming services.
- in the case of Australia, one of the three major roaming providers is charging for phone calls made at headline rates equivalent to domestic calls, noting that customers pay for incoming phone calls when roaming.
- new market entrants are appearing at the retail level that are providing not perfect but close substitutes and are pricing at competitive levels, even when compared with domestic headline rates.
- the choices of roaming products and services available to customers have increased in recent times. This may have the effect of greater market competition.

2.1.3.3. SMS comparison

Telstra, Optus and Vodafone provide unlimited SMS within Australia on many of their postpaid and prepaid services. This makes direct comparison between roaming and domestic SMS prices difficult. The rate per SMS while roaming in New Zealand is between \$0.50 and \$0.75 per SMS for the major Australian providers’ postpaid services. Woolworths’ SMS charges are \$0.53 for sending SMS within New Zealand and from New Zealand to Australia.

2.1.3.4. Data comparison

Data pricing has traditionally been the service with the largest gap between roaming and domestic pricing, with pay as you go (PAYG) rates for the major providers being between \$15 and \$50 per MB for postpaid and prepaid services. Recent price reductions mean that some consumers have access to much lower rates for data services. However, this is not available to all customers (e.g. the majority of Vodafone’s postpaid and prepaid customers cannot access Red Roaming, and prepaid customers cannot access travel packs). Furthermore, despite the headline rate reductions, prices for data services are still significantly more expensive than the equivalent domestic data services.

For example, Telstra’s PAYG/excess roaming data rate is \$3/MB, compared to its domestic postpaid excess fee of \$0.10/MB. Optus’ PAYG/excess roaming data rate is \$0.50/MB for New Zealand, compared to its domestic postpaid excess fee of \$0.01/MB (albeit billed in GB blocks). Vodafone’s excess data roaming price for New Zealand is \$0.50/MB, and its PAYG roaming data rate is \$10.24/MB for postpaid customers and \$51.20/MB for prepaid customers. This is in comparison with a domestic excess fee of \$0.10/MB for postpaid customers and \$2/MB for prepaid customers.

This means that when a postpaid customer is roaming in New Zealand, roaming data when using PAYG or excess fees can be between five and 100 times more expensive than domestic data from the same provider, with most of these headline prices being at least 30 times more expensive.

However, operators have been introducing new data pack offerings, or significantly reducing the pricing of their existing pricing packs (see Table 2 for more details). In some cases, such as with the data allowance packs sold by Telstra or Vodafone, a significant upfront cost must be paid prior to travelling. This upfront cost must be balanced against the lack of guarantee of quality of service when roaming internationally – i.e. if a service is not available when overseas, the significant upfront cost will be lost. In addition, while a customer being required to pre-estimate data usage while roaming to purchase travel packs is similar to a customer selecting a domestic plan or data add-on, the risk of either overestimating the required data usage (significant initial outlay wasted) or underestimating the required data usage (subject to substantial excess fees) are much higher than in the domestic context. Furthermore, some of the travel packs on offer do not cater to higher data users, especially when considering the equivalent amounts of data available in domestic services. This exposes these users to significant excess fees at high rates.

New market entrants are also providing roaming data rates competitive with the carriers, but not with domestic data pricing. For example, Woolworths offers \$0.92 per MB. Other roaming substitute services such as TravelSIM still charges significant data fees of \$18.84 per MB, meaning that this service would only be suitable for consumers who intend to make roaming calls but not utilise data services. The substitute services also do not offer ‘travel packs’ similar to the carriers, meaning the effective price of data to consumers may end up being significantly higher.

Tables 6, 7 and 8 show the total additional cost (on top of domestic plan or recharge value) that would be required for a roaming trip at various customer usage levels for Telstra, Optus and Vodafone customers, compared with the cost of acquiring that additional usage on a domestic service (e.g. via domestic add-on packs, excess data, pre-paid recharges etc). This uses the plans and prepaid services selected for Table 3. The data usage points are drawn from various sources, with additional high and low domestic data usage figures added to either end of the scale.

The data usage levels range from 5MB/day (light user of 150MB/month), 12MB/day (estimated average monthly data usage using ABS data),²⁹ 22MB/day (Optus’ stated average travelling data usage),³⁰ 30-50MB/day (Telstra’s stated average data usage)³¹ and 85MB/day (heavy user of 2.5GB/month).

²⁹ This is calculated by dividing total monthly mobile data usage by the number of active services, apportioned to a daily figure (sourced from <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6A35C25563E3F01BCA257BFA00127844?opendocument>). This does not exclude mobile customers that do not use mobile data services, which would likely increase the average daily usage.

³⁰ <http://www.heraldsun.com.au/news/victoria/optus-saves-aussie-travellers-hundreds-after-move-to-ease-roaming-charges/story-fni0fit3-1226700950797>

³¹ <http://exchange.telstra.com.au/2013/09/23/telstra-cuts-the-cost-of-roaming-by-up-to-80-per-cent/>

Table 6: Cost for a roaming Telstra customer on a 2 week trip (10 days) (e.g. holidayer, SME on business trip) at various usage levels, compared to equivalent domestic data.

Usage level	5MB/day	12MB/day	22MB/day	30MB/day	50MB/day	85MB/day
Trans-tasman Roaming						
Travel packs ³²	\$29	\$58-\$85	\$85	\$85	\$143-\$160	\$245-\$350
PAYG	\$150	\$360	\$660	\$900	\$1500	\$2550
Equivalent Domestic Postpaid						
Data add-on	\$5	\$5	\$5	\$15	\$15	\$15
Excess data	\$5	\$12	\$22	\$30	\$50	\$85
Equivalent Domestic Prepaid³³						
Data add-on	\$10	\$10	\$20	\$20	\$20	\$30-\$39

Table 7: Cost for a roaming Optus customer on a 2 week trip (10 days) (e.g. holidayer, SME on business trip) at various usage levels, compared to equivalent domestic data.

Usage level	5MB/day	12MB/day	22MB/day	30MB/day	50MB/day	85MB/day
Trans-tasman Roaming						
Travel packs ³⁴	\$100	\$100	\$100	\$100	\$100	\$275
PAYG	\$25	\$60	\$110	\$150	\$250	\$425
Equivalent Domestic Postpaid						
Excess data	\$10	\$10	\$10	\$10	\$10	\$20
Equivalent Domestic Prepaid³⁵						
Data add-on	\$5	\$5	\$5	\$5	\$5	\$10

³² The low end of the range of costs reported in this row require the optimal selection of Telstra data packs, given that multiple packs can be selected. In some cases this required buying packs of varying sizes. It appears unlikely that an actual customer would be able to estimate their data usage this accurately, meaning they would likely instead spend more on larger data packs (with wasted data allowance) to avoid significant excess fees. This reflects the high end of the range of costs reported in this row.

³³ Prepaid excess costs have not been included. This is because, due to the nature of prepaid services and the high excess headline rate, the available credit would expire before significant costs could be incurred. Rather than incurring these significant excess costs, a customer would be required to top up using either one of the data add-ons listed in the table, or a full recharge with similar data value.

³⁴ The costs calculated here include excess fees where the travel pack did not include sufficient data usage. Furthermore, the cost of the travel pack for Optus includes unlimited calls and SMS.

³⁵ Prepaid excess data costs have not been included for the same reason listed above.

Table 8: Cost for a roaming Vodafone customer on a 2 week trip (10 days) (e.g. holidayer, SME on business trip) at various usage levels, compared to equivalent domestic data.

Usage level	5MB/day	12MB/day	22MB/day	30MB/day	50MB/day	85MB/day
Trans-tasman Roaming						
Red Roaming ³⁶	\$50	\$50	\$50	\$50	\$50	\$50
Travel packs ³⁷	\$25	\$25	\$25	\$25	\$25	\$50
PAYG ³⁸	\$512	\$1229	\$2253	\$3072	\$5120	\$8704
Equivalent Domestic Postpaid						
Data add-on	\$10	\$10	\$10	\$10	\$10	\$20
Excess data	\$5	\$12	\$22	\$30	\$50	\$85
Equivalent Domestic Prepaid						
Data add-on	\$5	\$5	\$8	\$8	\$13-\$16	\$21-\$24
Excess data ³⁹	\$5	\$12	\$22	\$30	\$50	\$50

Tables 6-8 show that, in many circumstances there is a significant difference in the lowest available cost for consumers to use data whilst roaming in New Zealand versus using that equivalent volumes of data domestically in Australia. These tables do not include MVNOS, where the difference between roaming and domestic pricing is, in many instances, substantially higher.

The data packs offered by Telstra and Optus demonstrate that, whilst prices have been significantly reduced from previous levels, even when using travel packs the effective cost to the consumer of using TTMR data services is often considerably high than the equivalent volume of domestic data. For example, when a high usage Telstra postpaid customer (85MB/day) uses travel packs for TTMR data services it would cost the customer 16-23 times more than purchasing the equivalent domestic data add-on (depending on the travel pack combination selected). For an Optus customer, the travel pack costs 14 times more than ‘levelling up’ their domestic plan for the month allowing for the use of the same volume or greater data in Australia (for Optus postpaid plans that include 1GB per ‘level-up’ instead of 800MB, the 85MB/day user would incur a charge that is 28 times higher than the equivalent domestic data).

³⁶ Data is paid out of the domestic plan. All eligible plans have sufficient data for these travel portions.

³⁷ The costs calculated here include excess fees where the travel pack did not include sufficient data usage.

³⁸ This only represents postpaid PAYG roaming costs. PAYG prepaid costs have not been included prepaid credit would be used in a short space of time (at the data rate of \$51.20/MB).

³⁹ This assumes that sufficient Flexible Credit is available. Otherwise, as noted above the prepaid service would expire before significant costs could be incurred (which would not be the case for the 85MB/day user). Instead, in such a case a customer would be required to recharge their prepaid service.

2.1.4. Conclusion on pricing of TTMR services

Consumers and business travellers moving between Australia and New Zealand once faced very significant charges for TTMR voice, SMS and data services across the board. In general prices and margins have trended down from a very high base over the course of the trans-Tasman joint investigation, and particularly since the release of the final report of this investigation.

In terms of the trans-Tasman joint investigation, and the analysis conducted in producing this RIS, it has been concluded that the most important factor in driving prices and margins down is the continued threat of regulatory intervention. It remains unclear whether this downward trend would continue in the absence of an ongoing threat of regulatory intervention.

2.2. *Problem Two: Inability of the market to address the pricing of TTMR services*

High pricing of TTMR services has largely not been addressed by the marketplace in the absence of regulatory threat. Retail pricing of these services saw no significant movements until after the Prime Ministers' joint announcement in February 2013 regarding empowering the ACCC and the Commerce Commission to impose wholesale and/or retail price caps.

Problems in markets for TTMR services result from issues such as demand inelasticity, the lack of availability of perfect substitutes, high costs of entry to the market and wholesale agreements acting as a barrier to entry by MVNOs. However, it is acknowledged that the carriers have an increased focus on consumer issues and retail pricing in recent years, especially with regard to issues surrounding bill shock – which may have had a limited positive downward effect on the pricing of TTMR services.

2.2.1. Wholesale agreements as a barrier to entry

According to the OECD, larger operators, or operators which are part of a buying alliance, are often able to obtain better wholesale rates than smaller or unaligned operators, which are largely wholesale price takers.⁴⁰ The OECD notes that the smaller or unaligned operators do not have the bargaining power of the larger or aligned networks. This limits such operators' ability to introduce flat rate or bundled offers which would constrain IMR prices.⁴¹ MVNOs lack the scale of integrated operators and usually simply resell the IMR services offered by their host network without differentiation.

This is significantly different from MVNO pricing of domestic mobile services, reducing the comparative level of competition in markets for TTMR services versus markets for domestic mobile services. No distinguishing factors specific to the TTMR market have been identified which suggest that this global trend does not apply to this wholesale market. Wholesale arrangements in the TTMR market may act to limit the effectiveness of the threat of new entry as a constraint on TTMR prices.

⁴⁰ Unpublished OECD paper

⁴¹ Unpublished OECD paper

2.2.2. Competition issues relating to wholesale IMR agreements

The OECD has noted that carriers do not necessarily have the same incentive to seek lower wholesale prices for IMR services compared with other telecommunications services.⁴² This is on the basis of traffic balancing. Wholesale IMR service deals are reciprocal, meaning that each carrier both buys and sells roaming services with the same overseas carrier. Hypothetically, if two carriers, one in Australia and the other in a destination country have a wholesale IMR agreement, and they both have equally balanced traffic (i.e. both carriers' customers have equal aggregate usage levels of IMR services on the other's network) then the net payment for each carrier would be zero.

Practically, this means that a carrier with retail customers with higher aggregate usage levels of IMR services will have a net payment to make, but only at the margin above their reciprocal sales of wholesale IMR services. This means that balancing the traffic level of roaming services purchased from overseas with the level of services sold in return becomes a priority at the wholesale level, rather than the actual headline rate for the services. The OECD notes, however, that headline rates still may have an impact on domestic pricing.⁴³

The effect of traffic balancing is that, if wholesale IMR services are priced significantly higher than the cost of supplying the services, high retail margins may be disguised as low margins. This is because the retail margin is calculated using the high headline wholesale costs. In practice however, where these high wholesale rates are offset by the balanced traffic, the effective wholesale purchase cost becomes the cost of supplying the other country's carrier with reciprocal wholesale services. Similarly, traffic balancing may provide greater scope to reduce retail pricing without being affected by the headline wholesale rate of IMR services.

Whilst MVNOs would not face this incentive structure, as they only purchase wholesale IMR services, competition on this front does not bear out in practice. This is because they are generally excluded from directly purchasing wholesale IMR services from other country's carriers, as discussed above. Instead, MVNOs generally price-take headline wholesale IMR service rates from their domestic carrier partner, with these prices negotiated by carriers with different incentives to the pricing of wholesale IMR services.

An additional problem exists in carriers being required to partner with foreign operators that have compatible spectrum allocations. This is in order to ensure that the carrier's customers can use the same handset whilst overseas. This can further reduce the potential suppliers that a carrier may purchase wholesale IMR services from, leading to a less competitive outcome. Whilst the increase in multi-band phones has reduced the difficulty of matching for spectrum, carriers still need to ensure compatibility, especially with legacy devices which do not allow for multi-band use.

⁴² OECD Working Party on Communication Infrastructure and Services Policy, *International Mobile Roaming Agreements*, June 2013 <http://dx.doi.org/10.1787/5k4559fzbn51-en> pp 8-10.

⁴³ OECD Working Party on Communication Infrastructure and Services Policy, *International Mobile Roaming Agreements*, June 2013 <http://dx.doi.org/10.1787/5k4559fzbn51-en> pp 8-10.

2.2.3. Demand inelasticity and consumer complaints

Demand for IMR services is relatively inelastic, largely due to the fact that IMR services are bundled with domestic services. IMR services are rarely foremost in the mind of consumers when purchasing mobile services, with their purchasing decision unlikely to be based significantly on the IMR rates an operator is offering. Since customers' choice of operator is based primarily on the pricing of domestic services, bundling IMR services with domestic services diminishes commercial incentives to provide reasonably priced retail services and limits consumers' capacity to seek favourable IMR rates.⁴⁴

At the same time, the Australian Communications and Media Authority (the ACMA) reports that as at June 2011 only three per cent of mobile subscribers use IMR services.⁴⁵ The consumer not focussing on particular details of roaming charges may be an 'optimal decision' given the extent of their use. However, such consumer choice may impact on the structure of the market, including the extent to which market entry is likely, which in turn, has the potential to impact on the competitiveness of the market. It appears likely that, especially in the case of data services, many consumers may choose not to use telecommunications services at all whilst overseas, due to the pricing of TTMR services and the imperfect nature of substitute services (as discussed below).

A survey undertaken by CCMI in 2013 found that a majority (55 per cent) of large enterprises (with 1000+ employees) have policies in place that either curtail/limit or outright forbid wireless device usage internationally.⁴⁶ Further, 45 per cent of respondents cited 'high cost' as the top of the list of challenges of managing international roaming for enterprise.

⁴⁴ The 2009 OECD report supports this view. See OECD, *International mobile roaming charging in the OECD area*, December 2009, p 8, <http://www.oecd.org/internet/broadbandandtelecom/44381810.pdf>

⁴⁵ ACMA, *Communications report 2010-11*, p 40, http://acma.gov.au/webwr/_assets/main/lib410148/communications_report_2010-11.pdf

⁴⁶ CCMI, 2013, *International Mobile Communications: How to Balance Connectivity, Productivity and Cost Concerns* www.truphone.com/ROW/About-us/News-and-Events/White-Papers/

2.2.4. The availability of substitutes

The trans-Tasman joint investigation concluded that alternative services such as pre-paid SIMs and wifi are imperfect substitutes and do not alone create pressure to push TTMR markets toward delivering competitive outcomes. The investigation found that:

- even if a service was a seamless alternative, operators would need to build brand awareness and overcome customer inertia to establish a credible alternative;
- using a local SIM means customers are not able to use their normal phone number while overseas and may also mean the full functionality of their device is unavailable. This is of particular concern for businesses including SMEs;
- SIM locking means many consumers are unable to use a local SIM unless they pay to have their device unlocked before heading overseas – many consumers are unaware of the need to check if their device is locked before travelling.
- using wi-fi enabled services means that the traveller only has intermittent access to communications services.

The ACCC has set out a number of types of information that can inform an assessment of substitutability.⁴⁷ These include:

- the function of the product;
- physical and technical characteristics of the product;
- costs of switching purchases;
- views and past behaviour of buyers;
- evidence of buyers switching to other products in response to price increases in the recent past;
- evidence of producers redeploying their production capacity in response to price increases in the recent past;
- views, business records and past behaviour of suppliers;
- relative price levels and price movements.

In 2010, the OECD concluded in a digital economy paper that consumers' preference for IMR services suggests that consumers place value on the ability to use their mobile phone as they do at home.⁴⁸ Table 8 sets out available substitutes and their advantages and disadvantages, as identified by the OECD in that report.

⁴⁷ ACCC, *Merger Guidelines*, 2008, para 4.27
<http://www.accc.gov.au/system/files/Merger%20guidelines.pdf>

⁴⁸ Diaz-Pines, Augustin, *OECD Digital Economy Papers No. 168, International mobile roaming – Analysis and policy recommendations*, 2010, p. 31, <http://dx.doi.org/10.1787/5kmh7b6zs5f5-en>

Table 8: Roaming substitutes

Substitute	Advantages	Drawbacks
Global MVNOs; global SIM cards; regional SIM cards	<ul style="list-style-type: none"> • Local calls at local rates • Price reductions (use of callback) 	<ul style="list-style-type: none"> • No incoming calls to the customer's usual number • Lack of brand recognition
Purchasing a local SIM card	<ul style="list-style-type: none"> • Local calls at local rates 	<ul style="list-style-type: none"> • No incoming calls to the customer's usual number • Language barriers
Dual SIM card handset and services	<ul style="list-style-type: none"> • Retention of domestic provider 	<ul style="list-style-type: none"> • No incoming calls to the customer's usual number • Availability of handsets • SIM-lock
VoIP substitutes (mobile or wifi network)	<ul style="list-style-type: none"> • Inexpensive over low-cost wifi access 	<ul style="list-style-type: none"> • No incoming calls to the customer's usual number • Data roaming charges • VoIP application lock or surcharge (mobile handsets) • Specific handset or laptop necessary
Hotel telephones; payphones; call shops		<ul style="list-style-type: none"> • No incoming calls to the customer's usual number • No mobility • Cost
International calling cards	<ul style="list-style-type: none"> • Inexpensiveness 	<ul style="list-style-type: none"> • No incoming calls • No mobility/some nomadicity • Language barriers
Use of SMS	<ul style="list-style-type: none"> • Perfect substitute of domestic SMS 	<ul style="list-style-type: none"> • Weak substitute (no voice calls) • High price compared to domestic SMS
Satellite roaming	<ul style="list-style-type: none"> • Global coverage 	<ul style="list-style-type: none"> • No incoming calls • High prices/limited handset availability
VoIP substitutes (fixed network)	<ul style="list-style-type: none"> • Inexpensiveness 	<ul style="list-style-type: none"> • No incoming calls to the customer's usual number
Email	<ul style="list-style-type: none"> • Inexpensiveness • More flexibility (longer text, file exchange) 	<ul style="list-style-type: none"> • No incoming calls • Very weak substitute • Lack of real-time communication

As evidenced by the submissions to the draft report, the two main contenders for inclusion in the same market as TTMR services are wifi services and SIM cards.

For a number of reasons wifi hotspots are not considered an effective substitute. For example:

- the function of TTMR is to allow communications across the breadth of a territory; the function of wifi is to enable communications within discrete geographic zones;
- the main technical characteristic of roaming is support for voice, SMS and data services; the main technical characteristic of wifi is support only for data services;
- the costs of switching to wifi are high in the sense that the customer loses the ability to use his or her original number, can no longer use traditional telephony or SMS service, and may face difficulties in registering complaints;

New SIM cards purchased by the traveller, be they “local” (e.g. for a New Zealander, a Telstra SIM card) or “global” (e.g. TravelSIM) seem to be a more possible substitute but even they have shortcomings and impose costs on consumers.

However, TUANZ points out that “swapping out a SIM card for a local provider’s card is rarely as simple as it sounds”.⁴⁹ For example, the carrier-specific gateway settings that enable a mobile phone to access data services, ‘access point names’, are often not automatically applied when changing SIMs. Consumers can purchase a local SIM with data services but be unable to use the data services without entering the settings for their temporary overseas carrier. Acquiring the necessary information can often require the internet (which the consumer will not have access to from their phone), or returning the phone to the customer service point – especially with iPhones which require the loading of a special settings file to modify these settings. Further, if the consumer is not technically proficient, they may be unable to diagnose this problem.

Another significant issue is the need to change SIM cards and the associated loss of the customer’s usual mobile number. Optus claims that the fact that alternative local services do not allow a roamer to be contacted on his or her usual number is ‘not sufficient to warrant a separate economic market’.⁵⁰ However, as TUANZ states in its submission, loss of one’s usual mobile number ‘is not a painless experience for most customers’.⁵¹ For business consumers in particular the inability to retain their usual mobile number under this option represents a significant cost. Retention of a customer’s mobile number has been emphasised as particularly important in the context of local number portability.

⁴⁹ TUANZ, Submission to the Trans-Tasman roaming draft report, 2012, p 4 www.med.govt.nz/sectors-industries/technology-communication/pdf-docs-library/communications/mobile-phones/trans-tasman-roaming/2012-consultation-submissions/TUANZ-submission-TTR-draft-report-sep-2012.pdf

⁵⁰ Optus, Submission in response to the Trans-Tasman Roaming Draft Report (Public Version), September 2012, para 2.57
http://www.communications.gov.au/__data/assets/pdf_file/0007/158425/12.09.27_OPTUS_submission_trans-Tasman_IMR_PUBLIC.pdf

⁵¹ TUANZ, Submission to the Trans-Tasman roaming draft report, p.4.

While these service alternatives, as a group, may potentially provide some constraint on the market for IMR services this conclusion must be balanced against the packaging of IMR services at the retail level. IMR services are provided as part of a bundled product that includes domestic mobile services, and constitute a small part of a typical consumer's mobile telecommunications service usage profile. As a result, the transparency of any price increase for these services is somewhat limited. This restricts consumers' ability to respond to an increase in the price of IMR services.

A survey by the New Zealand Ministry of Economic Development in May 2011 demonstrated a high level of demand inelasticity. The results of the survey show that while a small but significant non-transitory increase in price (SSNIP) may result in both individuals and SMEs at least attempting to use IMR services less, this did not necessarily translate into switching to using alternatives.⁵²

The survey found that 71 per cent of individuals would instead use voice roaming less, and 53 per cent of SMEs and 40 per cent of large companies would try to get staff to use voice roaming less (though many fewer thought they would be successful).⁵³ For the data usage question, 65 per cent (handheld) / 64 per cent (laptops) of individuals would use data roaming less, and 53 per cent (handheld) / 52 per cent (laptops) of SMEs, and 51 per cent (handheld) / 51 per cent (laptops) of large companies would try to get staff to use data roaming less (though, again, many fewer thought they would be successful). An indication that a respondent is likely to use a service less does not mean they will switch to an alternative, which is necessary for demand side substitutability.

The survey also found that only 5 percent of SMEs would switch to local SIMs. Furthermore, the survey found that 53 per cent would use the roaming services less, which is supported by the recent CCMI study indicating 55 per cent of large enterprises have a policy that restricts use of IMR services.⁵⁴ This indicates that there would likely be much less communication taking place between SME travellers and home offices, and possible between travellers and NZ business partners. It is possible to conclude from this that high roaming prices and the limited availability of substitutes present an impediment to the growth of trans-Tasman economic ties, a stated objective of the Australian government. A 2012 survey undertaken by the then DBCDE of the telecommunications industry indicated that less than 10 per cent of all international visitors use local SIMs while travelling in Australia.

While closer alternatives to IMR services have been introduced, and there are signs that the market may further evolve in response to these services, it is not yet clear that they will act in the future to effectively constrain prices in the market for IMR services.

⁵² New Zealand Ministry of Economic Development, 'Analysis of New Zealanders' Communication Technology Use While in Australia', May 2011, <http://www.med.govt.nz/sectors-industries/technology-communication/pdf-docs-library/communications/mobile-phones/trans-tasman-roaming/summary-of-survey-results-of-nz-while-in-australia.pdf>

⁵³ Department of Broadband, Communications and the Digital Economy and the New Zealand Ministry of Business, Innovation and Employment, *Trans-Tasman Roaming Draft Report*, p. 21

⁵⁴ CCMI, 2013, International Mobile Communications: How to Balance Connectivity, Productivity and Cost Concerns www.truphone.com/ROW/About-us/News-and-Events/White-Papers/

2.2.5. High costs of market entry

The relatively small size of the mobile telephony markets compared with the significant costs associated with entry in Australia and NZ suggests there is little prospect of new entrants. Entry into the mobile market requires significant investment in both network and associated backhaul infrastructure. Significant additional costs also exist in implementing the information systems needed to manage billing, marketing and network management. The size of this investment presents a natural barrier to entry.

This is particularly so, given that IMR services represent a very small part of overall mobile telephony use, which further restricts the likelihood of market entry. The ACMA reports that as at June 2011, only three per cent of mobile subscribers used IMR services within the previous year.⁵⁵ While this likely reflects the high pricing of IMR services, the low percentage of users restricts the potential customer base for new market entrants.

The OECD in its 2009 report also identified the limited availability of spectrum as a barrier to entry and exit.⁵⁶ One of the key costs of entry into the mobile market is the acquisition of spectrum. For example, the 2013 Australian ‘digital dividend’ spectrum auctions earned approximately \$2 billion.⁵⁷

The OECD further noted that while the costs of entry for an MVNO are lower, they are limited in their ability to provide any significant change in the market. It noted that MVNOs have, to date, priced IMR services in a manner overwhelmingly similar to mobile operators, due to the inelastic demand for IMR services at the retail level.⁵⁸ At the time of writing however, pricing of TTMR services by MNVOs was generally more expensive than the retail pricing of the carriers, with MVNO TTMR pricing generally reflecting carriers’ pricing prior to the price reductions seen from the carriers in 2013. The OECD further identified the nature of wholesale agreements as another key factor in limiting MVNOs ability to disrupt the current market arrangements.

These significant entry costs, the small size of the market overall, and in particular, the limited opportunities presented for IMR services, suggest that market entry is unlikely.

2.2.6. Recent positive developments: Increasing focus by carriers on consumer issues relating to pricing structures for mobile services

In recent years there has been an increasing focus on carriers providing billing structures for retail customers that attempt to minimise bill shock. For example, in late 2013 Optus’ mobile website was updated to heavily feature ‘Say no to bill shock’, as domestic postpaid plans were updated to temporarily ‘level up’ to the next plan’s data or call usage allotment for the difference in price between those plans for a single month.

⁵⁵ ACMA, *Communications Report 2010-11*, http://www.acma.gov.au/webwr/_assets/main/lib410148/communications_report_2010-11.pdf p 40 (accessed 24 November 2013).

⁵⁶ OECD, *International mobile charging in the OECD area*, December 2009, p 14, <http://www.oecd.org/internet/broadbandandtelecom/44381810.pdf>

⁵⁷ ACMA Media Release, 7 May 2013

⁵⁸ OECD, *International mobile charging in the OECD area*, December 2009, p 15, <http://www.oecd.org/internet/broadbandandtelecom/44381810.pdf>

The carriers have publicly characterised their price reductions as being a move to reduce bill shock. Vodafone announced its roaming price reductions in July 2013 as being ‘the first step in ending widespread confusion and bill shock surrounding international roaming’.⁵⁹ Further, Telstra has characterised its media release on roaming pricing as being about bill shock.⁶⁰

It is expected that, whilst the main factor for the reduction in prices of TTMR services is the threat of regulation, this may also have had some limited effect on the pricing of TTMR services.

2.2.7. Conclusion on current competition outcomes in the TTMR

The reductions in prices and margins observed in the TTMR market since 2009, when the trans-Tasman joint investigation began, suggest that the threat of regulatory intervention has been an important factor in constraining TTMR prices. Despite demand inelasticity, the growing availability of substitutes suggests that demand side factors are increasingly a factor in carriers’ pricing behaviour. The threat of new entry at the wholesale level has had limited impact, due to the high costs of entry and the possibility that the nature of the wholesale arrangements in the market limit the effectiveness of market entry.

The pricing data presented suggests the emergence of some more reasonably priced roaming services. The TTMR market is a noticeably different market than a few years ago in terms of roaming prices and profit margins. Whilst the price reductions for TTMR services that have occurred throughout 2013 are mainly attributed to the threat of regulation, it is likely that an increasing customer focus of carriers plays a factor. It appears unlikely that pricing would stay at current levels or continue to trend down in the absence of regulation. This is especially true given the unique nature of the wholesale element of IMR services.

⁵⁹ <http://www.vodafone.com.au/doc/GAMECHANGERVodafoneMovesToEndInternationalRoamingRort.pdf>

⁶⁰ <http://exchange.telstra.com.au/2013/09/23/telstra-cuts-the-cost-of-roaming-by-up-to-80-per-cent/>

2.3. *Problem Three: Inability of the current regulatory framework to address the pricing of TTMR services*

The inability of the current regulatory framework to address the pricing of IMR services arises from:

- the inability of the ACCC to gather the required information
- the lack of appropriate regulatory mechanisms
- the ineffectiveness of unilateral action by the ACCC

2.3.1. Inability to gather required information

It is well established that the regulation of a marketplace should only be taken as a last resort in cases where market dynamics are insufficient to deal with a particular issues. The OECD has acknowledged this, recommending that ‘where possible, the determination of wholesale roaming prices should be left to the market’.⁶¹ However, the OECD also goes on to state that ‘[if] market dynamics are insufficient to produce reasonably competitive wholesale prices, they are encouraged to regulate wholesale roaming prices’.

The Department is not suitably placed to make decisions on the existence or otherwise of market failure. In Australia, the ACCC, as the expert competition and economic regulator, is generally ideally placed to make such distinctions. This is especially due to the ACCC having information gathering powers under Part XIB of the *Competition and Consumer Act 2010* to compel carriers to provide such information, which apply to the telecommunications sector. These powers assist the ACCC in determining whether market dynamics are sufficient in a particular market for telecommunications services. The Department does not possess similar information gathering powers.

The recent trans-Tasman joint investigation has been an ad hoc process, difficult to establish and resource-intensive to run. It is unlikely that the two governments could quickly repeat the exercise. By contrast, with staff specialised in regulatory and information gathering processes, the ACCC’s investigations can be undertaken more quickly. This reduces the risk of regulatory error, minimises the cost of intervention, and facilitates a timely response.

For example, analysis of the costs of supplying wholesale IMR services is critical in determining whether prices at the wholesale (and eventually retail) level are reasonable. In the EU context, the Body of European Regulators of Electronic Communications (BEREC) has taken the position that the additional costs of supplying roaming services over domestic services (such as transit and billing) are small.⁶² As has been done in the EU context, drawing such conclusions is more appropriately done by the telecommunications competition regulator, which in Australia’s case is the ACCC.

⁶¹ OECD Working Party on Communication Infrastructure and Services Policy, *International Mobile Roaming Agreements*, June 2013 <http://dx.doi.org/10.1787/5k4559fzbn51-en> p 6, citing the 2012 OECD Recommendation on International Mobile Roaming Services.

⁶² OECD Working Party on Communication Infrastructure and Services Policy, *International Mobile Roaming Agreements*, June 2013 <http://dx.doi.org/10.1787/5k4559fzbn51-en> p 30.

However, the ACCC's powers to gather information on the pricing, cost and revenue of IMR services, particularly at the wholesale level for both Australian and overseas markets is currently limited. This presents both the ACCC and the government more generally with the problem of having incomplete information in determining whether market forces in markets for TTMR services are acting effectively.

2.3.2. Lack of appropriate regulatory mechanisms

The existing telecommunications-specific provisions of the CCA cannot be used to pose an effective regulatory threat in markets for TTMR services. Specifically, the access and pricing regulatory powers considered the most effective in tackling concerns for pricing of TTMR services at the wholesale level are not currently within the remit of Part XIC of the CCA, and do not arise even where a breach of s46A (misuse of trans-Tasman market power) could be proven.

2.3.3. The ineffectiveness of unilateral action

The nature of international mobile roaming means that unless there is reciprocal action with another country, there are no fully effective measures to address wholesale international mobile roaming prices. In a 2008 submission to a Parliamentary Inquiry, the ACCC described IMR as 'an intractable problem, with little incentive for operators to engage in competition and jurisdictional issues hindering any unilateral initiatives.'⁶³

In the domestic context, for example, the ACCC is able to regulate terms of access to ensure that operators have access to competitive wholesale rates. In this situation, the wholesale and retail services are both provided in Australia, so access to lower wholesale costs translates into lower retail rates for Australian consumers.

In the IMR context, however, the wholesale and retail service providers are based in different countries. This means that if the ACCC were, for example, to unilaterally introduce regulated terms of access for IMR services, these wholesale terms would be available to New Zealand operators. New Zealand operators would then have lower wholesale costs and be able pass this on to their customers travelling to Australia in the form of lower retail prices.

This regulatory action would provide no benefit to Australian consumers. New Zealand operators would not be obligated to provide similar terms of access to Australian operators. This means that the Australian operators would not have access to lower wholesale rates and so would not be in the same position to provide lower retail rates to their customers travelling to New Zealand.

For Australian consumers to benefit, the ACCC would need to take coordinated regulatory action with an overseas counterpart. It is unable to do this within the existing telecommunications regulatory framework.

⁶³ ACCC, *Submission to the House of Representatives Standing Committee on Communications inquiry into international mobile roaming*, August 2008, p. 11, http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=coms/mobileroaming/subs.htm

3. Objective

The government's objective is to enable Australian businesses and consumers that travel to New Zealand to be able to effectively communicate with people both in New Zealand and back home in Australia. This means Australians need to have access to mobile voice and data services when travelling in New Zealand which are comparable to those available when at home. This is especially important to facilitate Australian businesses that seek to do business overseas. Equally, the government also wishes to facilitate New Zealand businesses travelling to Australia to do business here.

To enable this, the government wishes to provide for an outcome, either market or regulatory based, that ensures consumers have access to reasonably priced TTMR services that reflect the costs to operators of providing these services, whilst also being consistent with a reasonable rate of return.

4. Options

Five options to address competition issues are considered below. With the exception of Option One, these options are predicated on coordinated action by the Australian and New Zealand governments. Any action taken to address IMR prices will need to be developed and implemented in a manner which considers each country's international rights and obligations.

Option 1: Do nothing – the Department to maintain a watching brief and launch further investigations in the future if necessary.

Option 2: Monitoring – empower the ACCC to maintain an effective watching brief, by providing for the ACCC, as necessary, to impose record-keeping rules for wholesale traffic, revenue and pricing information on IMR services supplied to customers travelling to New Zealand. The regulators would be required to report publicly on wholesale and retail pricing, and retail margins.

Option 3: Structural intervention – effect structural changes in the trans-Tasman market for IMR services as soon as possible. There are two sub-options for structural intervention: retail unbundling and mobile local access. Retail unbundling would require service providers to supply an IMR service unbundled (or decoupled) from domestic mobile services. Mobile local-access services (MLA services) would enable roamers to act as local users in their destination without having to change SIM cards or becoming unreachable on their original numbers.

Option 4: Direct price regulation – intervene in the trans-Tasman market for IMR services to influence prices. There are two sub-options for direct price regulation: price caps at the wholesale and / or retail level, and regulated terms of access.

Option 5: Enhance regulator's powers – empower the ACCC to use the monitoring powers in Option 2 to maintain a watching brief, and, if necessary, choose from the price regulatory measures in Option 4, should it determine that intervention in a market for TTMR services is warranted. While the ACCC would have the power to implement these remedies, it would not be able to use these remedies unless it could show the need to do so, by conducting a public inquiry process subject to statutory criteria and allowing for public consultation.

These options and their respective merits are discussed in the following section.

5. Impact Analysis

This section draws on recent retail pricing offers and the market analysis the then DBCDE and MBIE conducted as part of the trans-Tasman joint investigation. However, due to the commercially sensitive nature of wholesale pricing information, the analysis contained in this section is limited in the extent to which it can use actual market pricing information.

Reciprocal action with New Zealand would be required for a number of these options and sub-options to be effective.

5.1. Option 1: Do nothing (but maintain a watching brief)

This option would maintain the status quo. The government, through the Department of Communications, would maintain a watching brief of developments in the TTMR market. No further action would be taken as part of the recently concluded trans-Tasman joint investigation. However, the government would reserve the right to conduct another full market investigation into TTMR services.

The GSMA, Telstra and VHA submitted to the trans-Tasman joint investigation that the governments should forbear from intrusive regulation. The GSMA and Telstra argued that the threat of regulatory intervention has not placed downward pressure on wholesale prices for TTMR services. Both argued that market and structural factors were the primary causes for the decline in prices in this context.

For the reasons set out in Section 2 above, it has been concluded that existing market and structural factors have a limited role in exerting downward pressure on wholesale prices and, by extension, retail prices. The significant threat of regulation posed by the trans-Tasman joint investigation has instead acted as the key constraint on pricing of TTMR services at the wholesale and retail levels, exerting downward pressure on prices for these services.

The draft report shows that in the period 2009-11 prices for TTMR services trended downwards, with most drops in retail prices occurring following the publication of the May 2010 discussion paper.⁶⁴ Prices for TTMR services dropped most significantly following a joint Australia New Zealand announcement in February 2013 signalling the intention to empower the regulators to take coordinated regulatory action. Similarly, in the European Union (EU), reductions in prices for IMR services were seen following the European Commission's first proposed legislative intervention.

In June 2013, the ACMA made an industry standard requiring suppliers of IMR services (when travelling to New Zealand or other destinations) to provide consumers with information on pricing, and the ability to opt out of purchasing these services. This empowers consumers to make a more informed choice, and to avoid bill shock. However, this does not address the underlying issue of high prices for TTMR services.

⁶⁴ Department of Broadband, Communications and the Digital Economy and the New Zealand Ministry of Business, Innovation and Employment, *Trans-Tasman roaming Draft Report*, pp.33-42.

Whilst prices for TTMR services have dropped significantly following the immediately impending threat of regulation in 2013, the ‘do nothing’ option constitutes a step back from this regulatory threat, as it would take some time to launch any fresh investigation and demand a high level of resources to carry out. It would be up to market and other forces to resolve the competition issues that characterise wholesale and retail markets for TTMR services. It appears unlikely that prices will remain at current levels and it remains possible that they would trend back upwards. It is relatively certain that any significant downward pressure on prices and margins would cease to exist.

Due to the lack of the ability of either the Department or the ACCC to effectively monitor the costs and pricing of TTMR services, particularly at the wholesale level, and the lack of effective powers to intervene if necessary, this option is not ideal.

5.1.1. Regulatory cost to business of Option 1

As the ‘do nothing’ option, Option 1 has no direct regulatory costs. However, if the government decides to conduct a further market investigation, this may impose some additional administrative burden to collect data from the industry. Due to the ad hoc nature of requesting this data, the costs may be higher than a streamlined process adopted by the ACCC using record-keeping powers described under Options 2 and 5.

Benefits:

- Does not require the creation of additional regulation, allowing a market-based outcome to develop, with limited positive success noted in section 2.2.6 above.
- Allows market to develop and respond to technological changes organically.
- Minimal additional regulatory costs.

Costs:

- The Department and the ACCC have incomplete information on the pricing and cost of supplying IMR services. This will reduce the government’s capability to maintain a watching brief as to whether regulation is needed in the future.
- Unlikely to exert downward pressure on the retail and wholesale prices of TTMR services, due to the reliance on a market-based solution (not addressing Problem Two). This will likely leave prices for TTMR relatively high, especially when compared with domestic services (not addressing Problem One).
- Any necessary regulatory intervention will be significantly delayed, as this does not provide a framework for regulatory intervention if such intervention becomes necessary (not addressing Problem Three).

5.2. *Option 2: Monitoring and reporting*

As discussed in section 2.3.1 of the problem, and Option 1, both the ACCC and the Department currently have limited information on the wholesale and retail TTMR market. In order to gather information, regulators and policy makers must either rely upon publicly available data, or launch an investigation and seek information from industry. While regulators have a range of existing powers to gather and publish information, existing record-keeping rules are insufficient to gather the required information for IMR services.

Under this option, the ACCC would be empowered to:

- make a record-keeping rule which would require Australian operators to provide the ACCC with data on pricing for wholesale and retail TTMR services, and traffic and revenue data;
- report annually on wholesale pricing related to TTMR services;
- report annually on the retail pricing of and margins for TTMR services.

These powers are minor extensions of the existing powers held by the ACCC for monitoring and reporting on the telecommunications industry. Unlike the industry standard the ACMA has developed, which is primarily aimed at enhancing consumer awareness, the monitoring and reporting proposed as part of this option is intended to enable the ACCC to more effectively monitor the state of competition in wholesale and retail markets for IMR services.

The ACCC's monitoring powers will apply to IMR services between Australia and New Zealand.

5.2.1. Wholesale and retail price monitoring

Record-keeping and reporting requirements would provide the ACCC with a clearer picture of wholesale and retail pricing for TTMR services and traffic and revenue flows. Providing the ACCC with information gathering powers would enable it to examine pricing and margin trends, and equip it with data to determine whether action is required. Providing the ACCC with the power to gather data to monitor the state of the market would allow it to respond to changes in the market which require regulatory intervention in a more effective and timely manner.

5.2.2. Wholesale and retail price reporting

A requirement to publish annual reports on the wholesale and retail pricing of TTMR services has the potential to provide consumers with a clearer picture of retail pricing and the factors which impact on pricing. This could enable consumers to make more informed decisions about their level of use and exert some countervailing power on the service provider. It could also encourage more competitive offerings from operators by 'naming and shaming' them (while noting that commercially sensitive information, would, if reported, be aggregated before being made public).

5.2.3. Conclusion on monitoring and reporting

Monitoring and reporting on prices is already undertaken by the ACCC with respect to the Australian telecommunications market. This would impose some additional costs on the ACCC to collect and process this data. These costs must be balanced against the benefits resulting from greater access to information for both the ACCC and consumers.

Given the prima facie case that TTMR prices are unjustifiably high, there is merit in providing the ACCC with powers to monitor markets for these services more closely. This would enable the ACCC to monitor ongoing market developments and determine whether there is a systemic problem that might warrant further intervention.

However, implementing Option 2 in isolation would lead to significant delays if regulatory intervention is necessary, as if the ACCC determines that intervention is warranted, it would not have the regulatory powers to do so. Consequently, this also reduces the threat of regulation, which has proven effective so far in placing significant downward pressure on the price of TTMR services.

Option 2 also does not reflect the currently agreed approach between Australia and New Zealand to provide the regulators with a range of regulatory tools to utilise if necessary in a coordinated manner. If Option 2 were instead implemented unilaterally, there would be reduced value in monitoring and reporting on the wholesale marketplace. This is because the wholesale market relevant to the supply of retail TTMR services used by Australian end-users is in New Zealand.

5.2.4. Regulatory cost to business of Option 2

While Option 2 would impose some additional set-up costs on industry for systems to collate and present data to the ACCC, industry already has systems in place for other services which require it to collect, collate and present similar data. The extent of these costs will depend on the rules put into place by the ACCC. As with the existing rules under Part XIB and other provisions in the CCA, there is substantial scope to minimise administrative burden on the industry and it is anticipated that the ACCC would take this approach in implementing any record-keeping rules and requirements.

Compliance costs for industry would be minimised through consultation on implementing monitoring and reporting measures. In its submission to the trans-Tasman draft report, Telstra notes that monitoring and reporting measures can represent effective light-handed means of regulation, provided that they are appropriately designed in consultation with industry.⁶⁵

Estimates of regulatory costs to business for record-keeping rules are discussed in Option 5 below. The estimates for that scenario result in aggregate costs to industry of \$74 925 for compliance with record-keeping rules over a ten year period (i.e. \$8 000 per year, rounded up to the next \$1 000).

⁶⁵ Telstra Corporation Ltd, Response to DBCDE and MBIE Trans-Tasman Roaming – Draft Report August 2012, Public Version, 8 October 2012, pp. 38-39, http://www.communications.gov.au/__data/assets/pdf_file/0009/158868/Telstra-Submission-on-Trans-Tasman-Roaming_8-October-2012.pdf

Benefits:

- Increased consumer information, leading to more informed choice
- Potential for consumers to exercise countervailing power
- Increased transparency
- Increased ability for the ACCC to determine whether action is required based on more complete information

Costs:

- Collection, collation and presentation costs for providers
- Resource costs for the ACCC to collect and process the information
- These powers do not of themselves address the inability of the ACCC to act on market failure or other pricing issues with TTMR services, given the inability of the current regulatory framework to address these issues (not addressing Problem Three).

5.3. *Option 3: Structural intervention*

Retail markets for IMR services are currently characterised by a limited number of operators supplying these services as part of a broader package, including domestic mobile services. Typically, IMR services are a small part of a consumer's wider mobile telecommunications service needs, and therefore, do not play a major role in their choice of mobile telecommunications service supplier. This limits the pressure on operators to compete at the retail level on price.

Under this option, the government would enact legislation to allow the ACCC to intervene as soon as possible to facilitate structural changes in markets for TTMR services which may encourage competition for the supply of these services. TTMR services are currently supplied as part of a bundle of services which includes domestic calls, SMS, MMS, data, international calls etc. Structural intervention would separate TTMR services from these other mobile services.

The EU is planning to undertake structural intervention, to take effect from 1 July 2014. In September 2013 the European Commission proposed new Single Market Regulation whereby operators are encouraged to form alliances and offer roaming services in the majority of EU Member States at prices no greater than domestic prices.

There are two sub-options considered here for structural intervention: retail unbundling and mandated mobile local access (MLA) services. Each sub-option would be implemented with New Zealand a reciprocal basis. Structural intervention is considered to be the most interventionist and regulatory option available to address the problem.

5.3.1. Retail unbundling

Mandated retail unbundling (or ‘decoupling’) would require operators to supply a standalone TTMR service that is not bundled with local mobile telecommunications services. It would not preclude operators from offering bundled services as an alternative product. In this scenario, a customer could choose to use one network for their domestic communications and a different network for their TTMR services.

This sub-option could encourage existing operators to offer more attractive retail pricing, as consumers are able to select different operators to provide TTMR services and local mobile telecommunications services. The result would be akin to the separation of local and toll calls in the Australian fixed-line market, where carrier pre-selection for toll calls has been implemented.

Retail unbundling has the potential to create demand for TTMR services which could be met through the introduction of small disruptive operators offering attractive standalone services. It could also encourage MVNOs to enter the market for roaming services, although this would likely need to be accompanied by reciprocal access obligations for both the Australian and New Zealand elements of supplying a roaming services.

This approach was adopted by the EU in 2012.⁶⁶ However, the EU’s proposed new measures in 2013 would, if adopted by an operator, exempt that operator from the requirement to undertake retail unbundling.

Telekom Austria Group commented that this approach would be much more effective than a continuation of the price cap method in the EU. It stated that decoupling would change the market dynamic significantly, leading to ‘a wave of new and highly competitive offers in the market.’⁶⁷

By contrast, Vodafone Group has stated:

[With decoupling] we do not think that competition would develop for all [roaming] customers ... investments in sales and marketing would only be made for those (frequent) roamers who generated sufficient revenues to cover those costs and earn a margin ... Decoupling roaming will also make the roaming experience more complex for users and increase their search costs.⁶⁸

The Body of European Regulators for Electronic Communications (BEREC) has made statements to a similar effect, noting that ‘on the basis of BEREC’s competition analysis, there is a risk that such a measure [as decoupling] will deliver little incremental competition benefit, over and above the competition benefits likely to result

⁶⁶ See Articles 4 and 5 of the EU Roaming Regulation, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:0035:EN:PDF>

⁶⁷ See comments of Alexander Zuser, Head of Group Regulatory & Roaming at Telekom Austria Group, 8 November 2011, www.telekomaustria.com/presse/news/2011/Telekom-Austria-Group-s-view-on-the-new-Roaming-Regulation-.php

⁶⁸ See comments of Vodafone (Richard Feasey), in the submission on the Review of the Functioning of the Roaming Regulation, 26 January 2011, at paras 69–72, http://ec.europa.eu/information_society/activities/roaming/docs/cons11/Vodafone1.pdf

from the combination of wholesale price reductions and wholesale access [already in place in the EU]'.⁶⁹

WIK-Consult describes mandated retail unbundling, independently of its work with the then DBCDE and MBIE, as 'intensive retail intervention'.⁷⁰ The risk and cost of implementing effective structural change in the market for TTMR services would be significant. Although this measure is likely have some positive impact on retail market dynamics, at this stage it is not considered that it will generate sufficiently-improved retail outcomes to warrant further consideration.

5.3.2. Mobile local-access services

Under this form of structural intervention, Australia would require that operators provide consumers with the option of choosing an MLA service for their telecommunications needs while travelling overseas. There are two variants of this sub-option. Under one variant, consumers rely on their home network to arrange for an MLA solution at the destination. The network at the destination offers the service to the customer's mobile service provider, which then resells the service to the customer. The second would allow customers to establish a direct billing arrangement with networks at the destination for an MLA service, so long as the network at the destination has a relationship with the home network.

In traditional IMR arrangements, a visited network has little ability to attract foreign visitors away from their home networks. Typically, it will resort to advertising at ports of entry to encourage those visitors to purchase local SIM cards. It will then have to rely on the visitors' willingness and ability to obtain such cards. By contrast, MLA services, regardless of the variant offered, would increase choice in the market. It has the potential to introduce reduced prices in competition with traditional IMR offers, leading to a reduction in traditional IMR rates. The direct billing arrangement would potentially introduce new players to the retail market, and exert downward pressure on prices through greater competition among a greater number of players.

Under both variants, visited networks providing wholesale IMR services would be constrained in their pricing by the existence of MLA service offerings at the retail level. Higher retail IMR rates increase the likelihood of customers switching to the non-revenue generating MLA service, creating an incentive for operators to lower retail IMR rates. Lower retail prices would in turn act as an incentive for home networks to negotiate for lower wholesale rates. The constraints on retail, and by extension, wholesale pricing also apply where the MLA service is supplied by an operator which also offers inbound IMR services. Operators have an incentive to reduce retail prices by reference to the prices of less lucrative MLA services to minimise the number of customers who choose the less lucrative MLA service.

As with retail unbundling, the EU adopted the approach of mandating MLA services for data roaming services. However, similarly to retail unbundling, the EU's proposed new

⁶⁹ See *BEREC Analysis of the European Commission's Proposal for a Regulation on Roaming*, August 2011, at para 9, http://berec.europa.eu/eng/document_register/subject_matter/berec/download/0/236-berec-analysis-of-the-european-commissio_0.pdf

⁷⁰ See the WIK-Consult, *Study on the Options for Addressing Competition Problems in the EU Roaming Market*, 2010, http://ec.europa.eu/information_society/activities/roaming/docs/cons11/wik_report_final.pdf, p.76.

measures in 2013 would, if adopted by an operator, exempt that operator from the requirement to supply MLA services.

The effectiveness of this structural intervention may be limited by Australian regulatory requirements around the verification of prepaid mobile telecommunications services, consumer fatigue, and consumer confusion (both in terms of pricing and the appropriate contact point in the event of problems with the service). Currently, vendors of prepaid mobile services are required to do an identification check at the point of purchase or activation. This may present a barrier to pre-selecting a network for the supply of MLA services.

There is also a risk, particularly with the second variant, that consumers may be bombarded by offers, and feel unable to make a choice. This is particularly so given the lack of transparency in retail IMR prices. Roamers may find it difficult to get a full sense of the relative benefits of the MLA service as compared to traditional IMR services. Finally, particularly in relation to the second variant, as the consumer would have a relationship with more than one operator, there is potential for confusion about which operator to contact in the event of problems with the service.

5.3.3. Conclusion on structural intervention

Structural intervention could deliver significant benefits in the form of increased consumer choice and the potential for greater competition in the market. These must be balanced against the significant costs of intervention and the time before which a structural solution could actually be introduced. Both options represent intense retail intervention which would mandate product offerings and design. It would result in significant regulatory and implementation costs. Any move to introduce structural measures, particularly retail unbundling, would require a further study of the net benefit of its introduction, which is likely to be a resource-intensive exercise, and require long lead times.

Structural intervention is likely to represent a significant cost to industry, and may be prohibitive for small, single country operators. By way of example, the Vodafone Group has estimated these costs at several million pounds for each of its EU subsidiaries.⁷¹ The substantial costs associated with structural interventions are driven by:

- the need for complex technical changes in how the networks and systems of MNOs operate. Before such changes could be designed and introduced technical standards would need to be developed and agreed between Australia and New Zealand;
- network infrastructure, IT systems and billing systems would all need to be adjusted;
- for it to have any effect, MNOs would need to invest significantly in sales and marketing to consumers to explain how the system worked and what their choices were.

⁷¹ Noted in discussion with the then DBCDE

Due to the significant regulatory costs that would likely be associated with this option, and the risks associated with achieving the potential benefits, it is unlikely that structural intervention will be pursued at this stage.

5.3.4. Regulatory cost to business of Option 3

While a comprehensive study of the regulatory costs of this option have not been undertaken, it is expected that there will be significant administrative costs in complying with any regulation under this option. There may also be substantial substantive costs for compliance with structural regulation, namely for any systems development required by the industry.

Benefits:

- Increased retail pricing transparency
- Potential shift in market dynamic
- Potential for increased competition in the retail market
- Increased consumer choice – assuming market entrants move to take advantage of structural change

Costs:

- Intensive retail intervention
- May require implementation of changes to Australian regulatory framework for prepaid services
- May have limited impact as a standalone measure
- May cause confusion to consumers
- Potential consumer fatigue and increased search costs
- Regulatory cost, including further investigation of costs and benefits of intervention
- Implementation costs for industry

5.4. *Option 4: Direct price regulation*

Price regulation can take one of two forms: the imposition of price caps (whether wholesale and/or retail), or the setting of regulated terms and conditions of access, (including both pricing and non-pricing terms and conditions). Rather than waiting to determine whether further market developments would address the issue of pricing of TTMR services, under this option, the government would intervene as soon as possible to introduce measures requiring the ACCC to impose price caps or set regulated terms and conditions of access relating to TTMR services. Intervention in markets for TTMR services would occur on a coordinated basis.

5.4.1. Price caps

Price caps may be applied at either the wholesale or retail level.

5.4.1.1. Wholesale price caps

A wholesale price cap could potentially create incentives for smaller operators to enter the market and supply cheaper TTMR services, in an effort to win new customers or encourage greater use. Since the EU's introduction of price caps, there has been little to no evidence of more competitive price offerings emerging at the retail level. Instead, prices have congregated around the retail caps that were established concurrently, indicating that operators have not passed savings on to consumers (beyond the requirements set by the retail cap).⁷²

A key reason for this behaviour is that the bundling of TTMR services with domestic services means that retail price cuts for TTMR services are unlikely to attract customers. TTMR services also do not generate sufficient traffic to compensate for the reduced headline rate, as the market is relatively price inelastic.⁷³ In its submission to the trans-Tasman joint investigation, Optus stated that prices at the wholesale level act as an artificial price floor for the retail price of IMR services. It argued that the way wholesale rates are set means that dominant market players and major international groups or alliances may be able to obtain lower rates, and that this in itself might represent market power.

Given this view, Optus considered that wholesale price controls in combination with retail pricing transparency measures would be an effective regulatory response to high prices for TTMR services.⁷⁴

5.4.1.2. Retail price caps

The EU has introduced retail price caps. This, in combination with wholesale price caps has proven effective in the EU as it has reduced retail prices of IMR services by over 80 per cent.⁷⁵

While prices have fallen, they have tended to cluster around the regulated caps. WIK-Consult, in its review of the EU roaming market, considered that there was 'little indication that the mobile roaming market has become truly competitive [following the introduction of price caps].'⁷⁶

However, more recently, WIK-Consult has viewed price caps in the EU context very positively, stating that 'wholesale and retail pricing mechanisms of the [EU] Roaming Regulations... have been highly effective in reducing wholesale and retail prices of roaming'. Further, they state that, while the EU Roaming Regulations have not created a

⁷² EC 2011 report: "average prices for the Eurotariff offered by operators and alternative tariffs are clustered around levels of the regulated caps" cited in Axiata presentation on International Roaming: Commercial and Regulatory Perspective at ITU Roaming Workshop, Bangkok, May 2012.

⁷³ WIK-Consult, *Study on the Options for Addressing Competition Problems in the EU Roaming Market*

⁷⁴ Optus, Submission in response to the Trans-Tasman Roaming Draft Report (Public Version), pp.3-5, p.18.

⁷⁵ European Commission, *Roaming* <http://ec.europa.eu/digital-agenda/en/roaming>, accessed 25 November 2013.

⁷⁶ WIK-Consult, *Study on the Options for Addressing Competition Problems in the EU Roaming Market*

competitive dynamic making further regulation unnecessary, such an outcome is not achievable in current markets for IMR services.⁷⁷

In marketplaces with limited wholesale and retail competitive forces, such as markets for TTMR services, price caps may prove the most effective form of regulatory intervention to address pricing in the absence of the ability to stimulate competition.

5.4.2. Regulated terms of access

Under this sub-option, the ACCC would make regulated terms and conditions of access in relation to the supply of TTMR services, including pricing terms. These terms and conditions would operate as a reference offer that access seekers may choose to adopt in the event that commercial negotiations fail. The reference offer may also include a mandatory retail pass-through requirement.

It is unlikely that operators would seek regulated terms of access. As set out in section 2.2.2 above, traffic balancing means that providers have limited incentive to seek lower rates at the wholesale level for inputs used in supplying TTMR services.

A retail pass-through requirement would ensure retail customers benefit from reduced wholesale prices. However, by limiting operators' retail margins, a pass-through requirement would likely further reduce incentives for providers to avail themselves of regulated terms of access.

A retail pass-through requirement would also limit operators' pricing flexibility. The Australian Competition Tribunal stated in relation to the pass-through of fixed-to-mobile termination rates:

We consider that the pass through provisions in the undertaking deprive access seekers of the flexibility to determine competitively the individual price elements for services within the basket of services that are supplied within the fixed-to-mobile market, and the form in which that pass through will take place. This approach retards allocative and dynamic efficiency, inhibits competition, is not in the long-term interests of end users and, in our view, is not reasonable.⁷⁸

With limited incentive to seek lower wholesale rates, it is unclear that an opt-in reference offer will put downward pressure on the price of IMR services.

5.4.3. Conclusion on price regulation

The EU experience with price caps suggests that they are unlikely to improve competitive dynamics. It is possible that wholesale prices caps, taken alone, may engender improved retail competition. While wholesale and retail price caps have not

⁷⁷ WIK-Consult, *International Mobile Roaming: Policy and Regulatory Actions: Theory and Practice* http://www.itu.int/en/ITU-D/Regulatory-Market/Pages/Events2013/GE_Roaming/Document/Session5-2%20Scott_Marcus_en_v3.pdf p 18, accessed 25 November 2013.

⁷⁸ Decision of the Tribunal dated 11 January 2007, in the Application by Vodafone Network Pty Ltd & Vodafone Australia Limited, at para 290. Available at <http://transition.accc.gov.au/content/item.phtml?itemId=796056&nodeId=766cf740cfbb57168824e98250ffddb3&fn=7%20Application%20by%20Vodafone%20Network%20Pty%20Limited%20&%20Vodafone%20Australia%20Limited%20%5B2007%5D%20ACompT%201.pdf>

created competitive dynamics in the EU, they have engendered lower prices for consumers and moved the EU closer to the Single Economic Market.

It is not yet clear that the benefits of implementing similar measures immediately in the TTMR context would outweigh the costs. Regulated terms of access provide operators with little incentive to seek lower wholesale rates, particularly if retail pass-through requirements are in place. However, price caps, or other similar price control arrangements are likely to be the most effective mechanism for addressing pricing in markets for TTMR services if a regulatory solution is required.

5.4.4. Regulatory cost to business of Option 4

It is difficult to produce a reliable estimate of the costs to business of complying with a direct price regulation solution. This is largely due to the wide range of regulatory outcomes that could be imposed by the ACCC in regulating the wholesale and/or retail pricing of, or wholesale access to TTMR services. However, price changes for telecommunications services are a normal cost incurred in the course of business. As a result, it is not expected, in most circumstances, that compliance with price regulation would impose a significant additional burden above this standard business practice.

Benefits:

- Some potential for lower prices if tight retail and wholesale price caps are introduced
- Wholesale caps alone may engender some degree of improved retail competition

Costs:

- Significant use of ACCC resources.
- Could limit reductions in price
- If price regulation is mandated, does not allow flexibility for a market solution to develop.

5.5. *Option 5: Enhance the regulator's powers*

This option would give the ACCC the power to conduct investigations into markets for TTMR services and intervene if necessary on a coordinated basis with New Zealand. This would be accomplished providing the ACCC with the enhanced monitoring and reporting powers outlined in Option 2 and the ability to implement most of the price regulation measures set out in Option 4. This combination of Options 2 and 4 would enable the ACCC to sustain the threat of regulatory intervention that has been responsible for the price movements observed since the trans-Tasman joint investigation commenced. A review of the regime could be commenced within two years of the regulatory measure being adopted.

As discussed above, Options 2 and 4 respectively address the ACCC's inability to gather complete information on TTMR services, and inability to intervene to address pricing in markets for these services.

The ACCC would be empowered to implement the following price intervention measures discussed in Option 4, namely wholesale price caps; wholesale access obligations; and retail price caps.

Importantly, it is not proposed to include retail pass-through requirements for wholesale access obligations, since it is unlikely the benefits of this measure will outweigh the costs, even in the future. As set out in section 2 above, the threat of regulatory intervention posed by the trans-Tasman joint investigation has led to a downward trend in TTMR prices. This option enables the ACCC to maintain a plausible regulatory threat in the first instance. If the regulatory threat proves sufficient to maintain downward pressure on TTMR prices, few of the costs involved in the more interventionist options would be incurred. Rather, costs would be limited to those required to implement the regulatory framework granting the ACCC the power to impose the remedies set out above.

However, if the regulatory threat does not result in better outcomes for consumers, the ACCC would have the power to intervene in a timely manner, drawing on the most appropriate regulatory mechanism at that time. Before implementing any measure, the ACCC would need to conduct a market investigation (conducted either pursuant to a Ministerial direction or as an exercise of its discretionary power) in line with its existing processes. The investigation would determine the most appropriate form of intervention given the state of the market at that time. If the ACCC needs to exercise one or more of its new powers, it will do so in consultation with relevant stakeholders, including operators. The measure would be implemented with New Zealand on a reciprocal basis.

This option would be based on the existing declarations powers contained in Part XIC of the *Competition and Consumer Act 2010* to enable the ACCC to conduct investigations into trans-Tasman mobile roaming services in the same way as it intervenes in other parts of the telecommunications market. That is, declaration would promote the long term interests of end users, having regard to the promotion of competition, achieving any-to-any connectivity and encouraging the economically efficient use of and economically efficient investment in, infrastructure. The long-term interests of end-users test would be supplemented by a requirement that any wholesale regulatory action on TTMR services would need to satisfy a reciprocity test. This test would provide that, in the case of IMR services, there must likely be equivalent availability of wholesale TTMR services sold by NZ operators following the regulatory action. The ACCC's decisions to declare a service is reviewable under the *Administrative Decisions (Judicial Review) Act 1977*. It is expected that this would also be the case following the implementation of price-controls.

The outcome of such a declaration inquiry would be to either declare the service or not. A declaration would be specific to New Zealand. If IMR services were declared, then the regulator would be able to make an access determination, setting wholesale access obligations, including default terms and conditions for access to the wholesale TTMR service, in the absence of commercial agreement. Additionally, the ACCC would conduct a similar process to impose a wholesale or retail price cap (or other price control arrangement) for TTMR services. The use of the regulatory tools provided under this option would be limited to IMR services.

It may be argued that providing the ACCC with the power to enact a range of regulatory measures could create a degree of regulatory uncertainty for industry. However, the

ACCC will only be empowered to take regulatory action following its usual processes. These processes would include conducting a public inquiry with rigorous considerations required by the legislative framework, and extensive consultation with stakeholders. If at the time of the ACCC's investigation, the market is delivering competitively priced outcomes, regulatory action would not occur.

This option would involve some small additional costs to the ACCC which, under the existing arrangements would be recovered from the telecommunications industry through annual carrier licence fees levied by the ACMA under the *Telecommunications (Carrier Licence Charges) Act 1997*. These costs are estimated at \$400 000 per annum. Balanced against the possible benefits to consumers from continued and ongoing reductions in IMR prices between Australia and New Zealand, and the alternative of having to revisit the question of the regulators powers in the future if it was decided that prices were not reasonable, this small additional cost is considered justified.

5.5.1. Regulatory flexibility

This option enhances the array of measures that the ACCC could take to deal with uncompetitive IMR prices. There are varying views on the merits of each of the regulatory measures considered in this RIS. These views depend entirely upon the circumstances being addressed at the time. Rather than the government choosing between these at this time, this option provides the ACCC with an array of powers with appropriate controls on their use.

Furthermore, the combination of improved monitoring and reporting powers (Option 2) and price regulatory powers (Option 4) are more useful in combination than in isolation. This is because the ACCC is first required to consider if any action is indeed necessary, and then only to implement it in a targeted way depending on the circumstances as they emerge. There is a significant chance that the ACCC would not be required, or indeed be able to satisfy the statutory criteria needed to use any of its regulatory powers if recent downward trends continue and TTMR markets deliver competitive outcomes without intervention. Whether regulatory action is eventually necessary would be greatly informed by the monitoring and reporting undertaken using the powers considered under Option 2. Furthermore, their monitoring and reporting powers will be directly linked with the proposed price regulatory measures, providing a focus for these record-keeping rules that would not otherwise be present in isolation from a regulatory framework.

In the EU, the regulator has used an array of regulatory powers to provide incentives for operators to reduce prices. For example, price caps have been combined with the incentive to form alliances to charge retail pricing for roaming services at domestic levels, to avoid both unbundling and retail price caps (with wholesale price caps remaining in effect). Providing the ACCC with an array of measures would enable it to create similar incentive structures.

5.5.2. Regulatory cost to business of Option 5

5.5.2.1. Regulatory costs

The monitoring and reporting powers proposed for this option would likely impose some administrative costs on some industry participants. It is expected that the ACCC

would undertake public consultation prior to putting in place new record-keeping rules. This would assist the ACCC to minimise the cost of compliance with any new rules. In its submission to the trans-Tasman draft report, Telstra notes that monitoring and reporting measures can represent effective light-handed means of regulation, provided that they are appropriately designed in consultation with industry.⁷⁹ Estimates of compliance costs for this Option are shown in Table 9 below, with the assumptions underlying these estimates discussed below.

To estimate compliance costs with record-keeping rules, it is assumed that rules would be made by the ACCC relating to TTMR services that apply to the three MNOs and five largest MVNOs. It is assumed that only five of the larger MVNOs would be required to keep records under such rules, with the smaller MVNOs not being required to prepare any such information. Further, it is assumed that the existing systems that industry has in place for record-keeping requirements for other services which require it to collect, collate and present similar data would likely be suitable for collection of most of the data required for keeping records on TTMR services. This is especially true as the record-keeping rules would act as a minor extension of the ACCC's existing powers from other telecommunications services to TTMR services.

Accordingly, the set-up costs associated with compliance with record-keeping rules has assumed that two database technicians (for the MNOs) or one technician (for the MVNOs) would spend one day establishing the database reports that would be used periodically to generate records. This would result in an estimated cost of \$615 per MNO and \$305 per MVNO. It is assumed that these set-up costs would be incurred a second time, after five years, assuming the ACCC varies the established record-keeping rules.

It is assumed that a single administrative officer would spend two hours on a monthly basis generating the necessary records for each MNO, and two hours on a quarterly basis for each MVNO. It is further assumed that a single administrative officer from each MNO and MVNO would then provide reports to the ACCC on these records on an annual basis, spending four hours preparing such a report. Time has also been allowed for managerial oversight of preparing these records and reports. It is estimated that the ongoing costs for compliance with record-keeping rules would cost \$1 325 in staff time per MNO per year, and \$570 in staff time for each of the five MVNOs per year.

Using the above assumptions, the aggregate set-up and ongoing costs for the three MNOs and five MVNOs would be approximately \$74 925 over a ten year period (or approximately \$8 000 per year).

As part of the consultation on this RIS, the Department would appreciate feedback from telecommunications companies that expect to be impacted by (i.e. the MNOs and larger MVNOs). In particular, the Department is interested in MNOs' and larger MVNOs' estimates of the set-up time required to establish record-keeping reports. The Department would also appreciate estimates of how many hours per month (for MNOs) or quarter (for MVNOs) required to comply with record-keeping rules for TTMR

⁷⁹ Telstra Corporation Ltd, Response to DBCDE and MBIE Trans-Tasman Roaming – Draft Report August 2012, Public Version, 8 October 2012, pp. 38-39, http://www.communications.gov.au/__data/assets/pdf_file/0009/158868/Telstra-Submission-on-Trans-Tasman-Roaming_8-October-2012.pdf

services on an ongoing basis. Finally, we would appreciate estimates of how many hours per year would be required by MNOs and MVNOs to produce a report on these records for the ACCC. This feedback should be provided assuming that any record-keeping rules made would not require additional systems development.

The cost of compliance with any price regulation made under Option 5 is difficult to estimate. As discussed in Option 4, this is due to the wide variance in possible regulatory outcomes that may be imposed by the ACCC, if any are indeed necessary. This is especially distinct with Option 5, as compared to Option 4 (where price-regulation of the market would commence immediately following passage of legislation. That is because if prices of TTMR services continue to converge with domestic prices, there may be no need for price regulation, and as a result no associated regulatory burden. This means it is difficult to draw a reliable estimate of compliance costs with the price-regulatory powers.

Additionally, the pricing and repricing of telecommunications services is a cost regularly incurred in the normal cost of doing business in the sector. As a result, it is not expected that repricing as a result of a price regulatory outcome would present significant additional costs to industry over and above existing costs associated with this regular business task.

5.5.2.2. Proposed regulatory offsets

On 17 October 2013, the ACMA made the *Telecommunications (Service Provider – Identity Checks for Prepaid Mobile Carriage Services) Determination 2013* (the Prepaid Determination) to implement more efficient identity checking arrangements for prepaid mobile services. The cost savings arising out of the new arrangements have been estimated at between \$4.60 (using the Document Verification System or DVS) and \$5.95 (using some other available methods) per prepaid mobile activation in 2013. The savings of \$4.60 by using the DVS are higher than the previously estimated figure of \$4.10, due to a recent reduction in the price per transaction to use the DVS. The savings realised for any particular industry participant will depend upon the identity verification method chosen by each particular industry participant.

These savings do not account specifically for most set-up costs, which cannot be reliably estimated. However, set-up costs are expected to be small compared to the significant ongoing transactional savings. Notably, the estimates of the transactional cost for each new method includes an overhead allowance for staff time and ongoing IT systems costs. Importantly, some of the new methods align closely with existing practice used by industry, which would significantly reduce the implementation costs for using these methods. Furthermore, a longer lead time has been allowed for complete uptake of the new methods (three years, rather than the expected two years). This allows for a small proportion of companies that do not have systems able to implement the new methods immediately to eliminate substantial implementation costs by embedding such upgrades into existing IT upgrade processes. The aggregate savings below take into account the cost of applying to use the DVS (\$5 000 per MNO and MVNO), as well as the technical connection charge (\$50 000 per operator directly connecting to the DVS).

Based on our assessment of the prepaid mobile industry, including using some information provided by industry, it is estimated that there will be approximately 0.7 million activations using the new methods in the first year of the Prepaid

Determination, increasing to approximately 6 million activations in the fourth year. This assumes that implementation of the DVS will have the greatest lead-in times (12 to 24 months) given industry's IT upgrade cycles and the changes required to its IT systems. For other new methods (such as existing account, secure delivery and bank account verification) minimal changes to IT and other business systems are required as they model current business practices. For these other new methods a faster adoption rate of up to 12 months is estimated. From the fourth year, after full uptake of the new identity verification methods, it is anticipated that there will be modest continued growth in activations, rising to approximately 6.8 million activations in the tenth year.

Based upon savings of between \$4.45 and \$5.80 per activation in 2013 (which is adjusted for inflation in later years), it is estimated that aggregate cost savings for industry (including the 30 000 retailers of prepaid services) will be approximately \$5.2 million in the first year, with total estimated savings of approximately \$220.2 million over ten years.

It is proposed that part of these savings would be applied as regulatory offsets if the measures proposed under Option 5 of this RIS are implemented. These offsets are targeted at the same group of businesses that would be affected by the administrative costs of compliance with this option. The remaining value of these offsets would be reserved for later use.

5.5.2.3. Summary of regulatory costs and offsets

The regulatory costs to industry for Option 5 are estimated at \$74 925 over a ten year period, reflecting estimated costs of compliance with record-keeping rules. The regulatory offsets identified above are estimated at \$220.2 million in savings over a ten year period. These costs and offsets are summarised in Table 9 below:

Table 9: Regulatory burden and cost offset estimate table for Option 5

Average Annual Compliance Costs (from Business as Usual)				
Costs (\$m)	Business	Community organisations	Individuals	Total cost
Total by sector	\$0.008	\$0	\$0	\$0.008
Annual Cost Offset				
Cost offset (\$m)	Business	Community organisations	Individuals	Total by source
Agency	\$0	\$0	\$0	\$0
Within portfolio	\$22.023	\$0	\$0	\$22.023
Outside portfolio	\$0	\$0	\$0	\$0
Total by sector	\$22.023	\$0	\$0	\$22.023
Proposal is cost neutral?	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no			
Proposal is deregulatory	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no			
Balance of cost offsets	<u>\$22.015m per annum</u>			

Benefits:

- Maintains market constraint presented by threat of regulatory action (addressing Problem Three)
- Facilitates timely and efficient responses to changing market dynamics, and allows for no regulation to be imposed if a market solution develops (addressing Problem Two)
- Ensures regulatory decisions reside with the body which possesses the requisite expertise and experience to make the best decision (addressing problem Three)
- Lower costs of implementation
- Enhances the capacity of the ACCC to adopt the most effective regulatory mechanisms to address high wholesale and retail IMR prices (addressing problems One and Three)

Costs:

- Potential uncertainty for industry

5.6. *Possible competition effects of regulatory options*

Options 2-5 would all impose some additional requirements on industry. While significant additional requirements on industry could act as a barrier to new entrants in the market, in the case of roaming services which are bundled within domestic mobile communications services they are not likely to have any impact on whether there are new entrants into the market. As discussed previously, the nature of the market is such that even with major structural changes the prospect of new entrants is limited. The argument for the ability to have regulatory interventions in the future (Option 5) is to ensure that the benefits in the form of lower prices that consumers might expect in a competitive market can be delivered with respect to IMR services. Furthermore, Option 5 has been designed to minimise the impact upon industry by allowing for a market-based outcome to develop, with the ACCC being empowered with appropriate monitoring and regulatory powers to intervene if such a market-based outcome does not eventuate.

There is already a view among some players, for example Optus, that dominant players or major groups or alliances might currently be benefiting from their market power in establishing wholesale IMR agreements. In the view of Optus this position supports the case for wholesale price intervention. A more cautious approach is to conclude that this position supports the case for ensuring that the regulator has appropriate powers to intervene in the future should it be warranted.

6. **Consultation**

6.1. *Previous consultation*

The Australian and New Zealand governments released a draft report in August 2012 as part of the trans-Tasman joint investigation. The report provided a market definition, a

competition assessment and the options for addressing the lack of incentives to compete in the supply of retail and wholesale IMR services considered in this RIS. The report invited submissions from interested parties. In total, the then DBCDE and MBIE received 17 submissions: six from operators (all present in the trans-Tasman market); two from industry associations; and eight from concerned individuals, groups representing end-users and academia. The submissions received form the basis for consultation on this RIS.

Telstra, VHA, Vodafone NZ, Telecom, and 2degrees dispute the findings of the Draft Report in their totality. Telstra, for example, argues in its submission that price reductions observed during the trans-Tasman joint investigation were the result of competitive pressures at the wholesale and retail level.⁸⁰ Telstra notes that, if the government were to proceed, it favours Option 1 (do nothing), arguing that, although it ‘does not agree with the Draft Report assessment that the threat of the investigation has been the primary driver for decreases in the margins in the [trans-Tasman] market, if it is correct, then maintaining a watching brief with the ongoing prospect of a future investigation will continue to produce the desired outcomes of decreasing margins. It would achieve the desired outcomes without customers and operators facing the unnecessary costs and the risks associated with the other options.’⁸¹

In contrast to the other operators, Optus accepts the Draft Report’s proposal to intervene at the wholesale level, but disputes the need to intervene at the retail level.

ACCAN argues that enhancing the regulators powers is the solution ‘most likely to reduce roaming prices in the long-term’.⁸² However, it expresses concern that pursuing this measure could delay the benefits to consumers. As a result, it argues that wholesale price caps with retail pass-through requirements should be rolled out as soon as possible, and that regulators should be provided with a range of powers, as presented in Option 5. ACCAN suggested that structural intervention would create confusion for customers. It also argued that the government should attempt to prevent operators from using SIM-locking to lock their handsets to their networks.⁸³

6.2. *Consultation on this RIS*

The Department of Communications is seeking submissions on this RIS and the options proposed for addressing the high pricing of TTMR services. Information on the deadline for submissions, as well as how and where to make a submission is available on the Department of Communication’s website at <http://www.communications.gov.au/>.

⁸⁰ Telstra Corporation Ltd, Response to DBCDE and MBIE Trans-Tasman Roaming – Draft Report August 2012, Public Version, para 184, p.41.

⁸¹ Telstra Corporation Ltd, Response to DBCDE and MBIE Trans-Tasman Roaming – Draft Report August 2012, Public Version, para 136, pp.32-33.

⁸² ACCAN, Response to Trans-Tasman Roaming: Draft Report, October 2012, p. 7, http://www.communications.gov.au/__data/assets/pdf_file/0009/158427/ACCAN_Response_to_Trans-Tasman_Roaming_Draft_Report_FINAL.pdf

⁸³ ACCAN, Response to Trans-Tasman Roaming: Draft Report, October 2012, p. 8, http://www.communications.gov.au/__data/assets/pdf_file/0009/158427/ACCAN_Response_to_Trans-Tasman_Roaming_Draft_Report_FINAL.pdf

7. Conclusion and recommended options

The trans-Tasman joint investigation identified that the threat of regulatory intervention as the key factor constraining prices for TTMR services. There have been some price reductions at the retail level, especially since the announcement of the intention to strengthen the ACCC and Commerce Commission's coordinated regulatory framework. However, it is not clear that in the absence of an effective regulatory threat, existing market and structural forces would continue to drive price reductions or encourage new market entrants.

Two of the three major Australian roaming providers are now charging for voice roaming in New Zealand at headline rates comparable to domestic mobile calls. However, these calls are outside the 'included value' of most plans, and customers have to pay for incoming calls when roaming, which is not the case in the domestic market. New and emerging market entrants at the retail level which are close but not perfect substitutes to the major providers are providing further downward pressure on retail prices.

The pricing data analysed in this RIS suggests the emergence of some more reasonably priced TTMR services. The TTMR market is a noticeably different market than a few years ago in terms of roaming prices and profit margins.

This RIS examines five possible options for achieving better outcomes for Australian consumers. Irrespective of the merits of implementation of any individual regulatory outcome (if regulation is indeed necessary), there is an overarching issue which is that the ACCC's existing powers do not enable it to pose an effective regulatory threat to constrain TTMR prices, if it judges that to be the case.

Price regulation could certainly be used to pursue better prices for consumers and has been used in the EU for this purpose. However pricing interventions are a relatively blunt instrument and thus should only be used in circumstances where it is absolutely clear that there is a market failure. Namely, they should only be used following a decision by the ACCC that market failure exists and that implementation of such remedies would promote the long-term interests of end-users. Further protections would exist to ensure that the ACCC would not regulate unless an equivalent/reciprocal outcome would likely eventuate, in order to ensure the Australian industry and end-users' and interests are protected.

Regulation to drive structural change could be used to encourage more competition in the provision of IMR services, but structural change comes at a cost and has not yet been implemented anywhere in the world. As with price regulation, structural interventions would best be considered if and when it is beyond doubt that there is a market failure. The EU will provide an important test case when it implements structural regulations in 2014.

The monitoring and reporting measures set out in Option 2 would complement the ACMA's industry standard on IMR consumer awareness. It would provide greater transparency, allowing regulators to more effectively monitor market movements and to better assess the effectiveness of the market in delivering competitive outcomes. It would also allow consumers to better inform themselves of the retail prices for IMR services available to them, potentially increasing the price elasticity of retail IMR

services. This may have the effect of stimulating greater retail competition, which may put pressure on wholesale and retail prices. Enhanced transparency will also potentially reduce instances of bill shock. The benefits of the monitoring and reporting measures are likely to outweigh the costs.

Measures to empower the regulator, set out in Option 5, would allow for the maintenance of a plausible regulatory threat, and allow the ACCC to undertake an inquiry in a timely and effective manner should the threat fail to deliver reasonable market outcomes (or a clear trend toward such outcomes). This option is likely to most appropriately address any concerns about competition in the market, despite what appear to be more competitive recent market outcomes.

This option also addresses the current inability of the ACCC to either gather information or to inquire and, if it considers it necessary, to use regulatory tools that will minimise the extent of any intervention. While the ACCC will be empowered to intervene utilising a number of measures, it will do so only following an inquiry in line with existing processes. This measure represents a lower cost option compared with immediately introducing either structural or pricing measures, as regulatory action would only be undertaken if it is deemed necessary. It also acknowledges the potentially far-ranging nature of the powers granted to the ACCC, and would include a requirement for the government to commence a review of the regime several years after implementation.

For a limited cost this option allows for a continuation of the status quo whereby the industry responds to policy and regulatory pressure and introduces commercially determined solutions. In addition, this option means that, if concerns persist, there is no need to undertake another ad hoc investigation and process to provide powers for intervention. Instead, the regulator is able to take steps consistent with the approach for other telecommunications markets.

This option provides the industry with more time to develop commercial solutions of its own and respond to evolving market conditions. Further, it gives the regulator the ability to observe and learn from the interventions being undertaken in other jurisdictions before proposing any application in Australia. Under this option the ACCC would have the scope to do nothing, but if it concluded there was a market failure, it could intervene.

In 2012, some Australian operators were defending retail pricing of IMR services.⁸⁴ As has been discussed in this RIS, in late 2013, Australian operators then proceeded to lower some retail roaming rates in the order of 80 per cent. Should Options 2 or 5 be adopted, it would be for the ACCC to examine pricing trends, evaluate the costs of providing services and determine whether pricing levels in the absence of regulation at both the wholesale and retail levels are reasonable and in the long-term interests of end-users. Further, if option 5 is adopted, the ACCC would only use its regulatory powers to intervene if this were found not to be the case.

It is recommended that Option 5 be adopted to further increase pricing and margins transparency, and to empower the ACCC with a range of price regulation powers, the

⁸⁴ For example: www.abc.net.au/am/content/2012/s3573960.htm).

latter of which it would only use should it decide following an investigation (including public consultation) that there is a need to intervene.

8. Implementation and review

A draft of the Telecommunications Legislation Amendment (International Mobile Roaming) Bill 2014 (the Draft Bill) has been attached to this RIS, with accompanying explanatory material. If the government proceeds with Option 5, it is expected that the legislation required to implement this option would largely reflect the Draft Bill. This includes a statutory requirement to conduct a review of the provision in the Draft Bill in 2018.

The framework set up by the Draft Bill would be able to be extended to countries other than New Zealand, if implementation of this option with New Zealand is successful, subject to other countries agreeing to reciprocal arrangements to benefit Australian industry and end-users.

In developing the Draft Bill to accompany proposed Option 5 with the Office of Parliamentary Council, the Department of Communications consulted closely with the ACCC and other relevant agencies on details of the proposed extension of the ACCC's record-keeping and reporting powers and the proposed new structural and price regulation powers.

If this option is implemented, the ACCC will consult with operators to avoid an overly-intrusive and ineffective monitoring and reporting regime. In consultation with operators, the Government will:

- establish up front what the key indicators that they wish to measure for the purposes of assessing competition – this avoids targeting the wrong data;
- only request the necessary information required for the key summary statistics on which competition is being assessed – this avoids 'nice to have' and superfluous information being required, which will increase the time and costs of any collection and handover process;
- ensure the data requested is as closely aligned to operator's existing account, billing and IT systems as possible – this avoids time-consuming, costly and at times unnecessary development of bespoke systems, and the requirement to retrofit the information available from existing IT and reporting systems manually with information from contracts; and
- ensure the data is sufficiently aggregated – this avoids the risk of disclosure of sensitive inter-operator tariff (IOT) information that may impact on future commercial negotiations.

The New Zealand Government would introduce similar legislation to Australia. The Australian legislation will be developed in consultation with New Zealand authorities to ensure consistency as far as possible. The additional powers set out in the legislation would only be applicable to New Zealand in the first instance. However, it will also include a mechanism to include other countries that have reached a similar reciprocal

arrangement with Australia. The listing of any additional countries through a regulatory mechanism will be subject to a further government policy decision.

The Department of Communications, the Department of Foreign Affairs and Trade (DFAT) and the Attorney General's Department (AGD) are working with New Zealand authorities on an arrangement to facilitate any possible reciprocal action between Australia and New Zealand.

The agreement would set out the reciprocal approach and the regulatory rules that will apply between Australia and New Zealand and establish a mechanism for the ACCC and the Commerce Commission (NZ) to take coordinated action if required.

9. Glossary and acronyms

ACCAN	Australian Communications Consumer Action Network
ACCC	Australian Competition and Consumer Commission
BEREC	Body of European Regulators for Electronic Communications
DBCDE	Department of Broadband, Communications and the Digital Economy
EU	European Union
GSMA	The GSMA represents the interests of mobile operators worldwide. Spanning 219 countries, the GSMA unites nearly 800 of the world's mobile operators, as well as more than 200 companies in the broader mobile ecosystem, including handset makers, software companies, equipment providers, Internet companies, and media and entertainment organisations.
Home network	At the retail level, the mobile operator who purchases the wholesale input repackages it as a retail roaming service. When acting in this capacity, it is known as the 'home network'. It sells its repackaged (retail) service to its own customers, when they roam across the Tasman.
IMR	International Mobile Roaming
MBIE	Ministry for Business, Innovation and Employment
MLA service	Mobile Local Access service
MNO	Mobile Network Operator – a business that operates mobile network infrastructure to supply mobile services
MVNO	Mobile Virtual Network Operator – a business that uses the mobile network of an MNO to supply mobile services
NZCC	New Zealand Commerce Commission - New Zealand's primary competition regulatory agency
OECD	Organisation for Economic Cooperation and Development
SIM	Subscriber Identity Module – SIM cards are used in mobile telephone handsets.
SSNIP	Small but significant non-transitory increase in price – The SSNIP test seeks to identify the smallest relevant market within which a hypothetical monopolist or cartel could impose a profitable significant increase in price.
TTMR	Trans-Tasman mobile roaming

TUANZ	Telecommunications Users Association of New Zealand
VHA	Vodafone Hutchison Australia
Visited network	At the wholesale level, a mobile operator acts as a host to roamers from across the Tasman. When acting in this capacity, it is known as the 'visited network'. It sells its (wholesale) services to mobile operators across the Tasman.
WIK-Consult	Firm providing contract based consultancy services for public and private institutions