



NEW WORLD PCS LIMITED

Submission

on

“Guidelines on the Principles and Methodologies for the
Interconnection Charges to Mobile Virtual Network Operators and
Tariffs for Content or Service Providers
By Mobile Carrier Licensees Operating in the 1.9-2.2 GHz Band

Industry Consultation Paper

6 August 2004”

Submitted on
6 October 2004

1. Background

- 1.1 This written submission sets forth the position of New World PCS Limited (“NWPCS”) in respect of the Industry Consultation Paper on “*Guidelines on the Principles and Methodologies for the Interconnection Charges to Mobile Virtual Network Operators and Tariffs for Content or Service Providers by Mobile Carrier Licensees Operating in the 1.9-2.2 GHz Band*” issued by the Telecommunications Authority (“TA”) on 6 August 2004.

2. Commercial Agreements

- 2.1 NWPCS supports that commercial agreements among the operators should always prevail against regulatory intervention. TA normally should not intervene into the arrangement unless the mobile network operator (“MNO”) fails to reach a commercial agreement on the terms and conditions for open network access (“ONA”) with a mobile virtual network operator (“MVNO”) or a content/service provider (“CSP”) under Special Condition (“SC”) 12 of the mobile carrier licence for 3G services, or it is considered that the arrangement is unfair, anti-competitive or discriminatory.
- 2.2 Notwithstanding that guidance on the definition of discrimination is given in SC 12, NWPCS recommends TA to establish further guidance on the situations where TA would consider the arrangement or the ONA charges/tariffs to be unfair or anti-competitive. This can help to set up a referencing framework for the MNO, MVNO and CSP to observe.

3. Charging Principles

Costing Principles

3.1 NWPCS agrees with TA that the ONA charges to MVNOs, tariffs to CSPs and the internal transfer prices should be based on a single and consistent set of principles. Transactions with affiliated parties do not give any solid ground for applying a different set of costing principles.

Relevant Costs

3.2.1 NWPCS agrees that, for the purpose of calculating the ONA charges and tariffs on a cost recovery basis, the relevant costs should be interpreted in a long-term context.

3.2.2 NWPCS also concurs TA's view that incremental common costs at corporate level should be considered as part of the relevant costs. However, in practice, MNOs may encounter difficulties in agreeing with the MVNOs and CSPs on exactly which type of overhead costs are "incremental" as a result of the ONA arrangement. Moreover, additional overhead costs due to management inefficiency incurred by the MNOs will be borne by the MVNOs and CSPs. As a result, we would recommend that a bench-marking fixed mark-up on the direct relevant costs of, say, [10%], can be applied to cover incremental overhead costs incurred by the MNOs.

Reference Carrier

3.3 NWPCS supports that the level of relevant costs should be determined based on each individual carrier. Under such approach, MNOs will get the greatest incentive for quality and efficiency improvement while earning adequate and reasonable compensation for their own networks.

Cost Standard

- 3.4.1 NWPCS is of the view that the adoption of current cost standard in determining the relevant costs will severely contradict with the principle of cost recovery in determining the ONA charges and tariffs by MNOs.
- 3.4.2 By determining the relevant costs under current cost standard, the resulted ONA charges and tariffs will include the holding gains or losses of the network assets incurred by the MNOs over their holding period. We consider that such holding gains or losses due to technological or other changes do not form part of the cost of networks that are being shared by the MVNOs and CSPs. The business risk of the MNOs on such change in current value of their network assets should have already been taken into consideration when determining their respective weighted average cost of capital (“WACC”), which are to be applied on the overall relevant costs to come up with the final ONA charges and tariffs. As a result, such holding gains and losses should be solely borne by the MNOs themselves.
- 3.4.3 Furthermore, as mentioned in the consultation paper, certain additional detail approaches should be considered (such as the revaluation or replacement approach, scorched node approach or scorched earth approach) when applying the current cost standard. Each of these approaches contains substantial level of controversial judgment, assumption and expectation. NWPCS believes that, in practice, it is extremely difficult for the MNOs and the MVNOs or CSPs to agree on the current costs of the network assets under any of these approaches on a periodic basis.
- 3.4.4 Alternatively, the adoption of historical cost standard can reflect the actual costs incurred by the MNOs. Moreover, it is more objective and fair to all parties and does not depend on various judgment and assumptions.
- 3.4.5 Based on the above, NWPCS is of the view that historical cost standard carries a more sound and reasonable sense in both theoretical and practical perspectives.

Asset Life

3.5.1 By the same token as above, NWPCS considers that it is very difficult for the operators to agree on the real economic life of a network on a periodic basis given the rapid technological changes in this industry.

3.5.2 NWPCS recommends that TA can give guidance to the operators on bench-marking economic lives of the major 3G network assets, which are to be used in determining the ONA charges and tariffs by the operators once and for all. These lives should not be changed periodically even substantial technological breakthrough in the industry is noted, unless the MNOs and the MVNOs/CSPs can mutually agree on a revised one.

Annualisation Methods

3.6 NWPCS supports that straight-line annualisation method should be adopted in deriving the annual ONA charges and tariffs for the sake of simplicity and consistency with the most commonly adopted accounting method in financial accounts.

Holding Gain and Loss

3.7.1 As discussed in 3.4.2 above, holding gains and losses of the network assets are considered to be part of the investment risk of the MNOs in the 3G industry. The recovery of such risk by the MNOs should have already been reflected by their respective WACCs which are to be applied in calculating the ONA charges and tariffs. Further inclusion of such holding gains and losses in the relevant costs will give rise to double counting.

3.7.2 Therefore, NWPCS is of the view that holding gains and losses should not be included as part of the relevant costs.

Network Capacity

3.8.1 NWPCS supports the view that the network capacity should be measured based on busy-hour traffic when calculating the ONA charges and tariffs. This is because the network operators, in general, will plan and split their network capacity with reference to the expected peak usage by the users of the MVNOs and themselves. The use of the busy-hour traffic as the parameter can, therefore, reflect the substance of such arrangement.

3.8.2 Furthermore, NWPCS believes that the network capacity should also be taken under the framework of “efficient capacity” instead of “actual utilization”. Although the MNOs will bear all the risk and burden of idle capacity of the 3G network if such approach is adopted, this risk should have been taken into account as a whole when applying the company specific WACC in the calculation of ONA charges and tariffs as to be mentioned in 3.9 below. In practice, it is difficult to take out such risk factor in the computation of WACC.

WACC

3.9 NWPCS agrees with TA that company specific WACC should be adopted in deriving the rate of ONA charges and tariffs. Nevertheless, certain bench-marking parameters in calculating the WACC for the 3G industry (such as the industry risk factor) suggested by TA will help to avoid dispute among the operators during negotiation process.

Summary for Charging Principles

3.10 Overall, NWPCS suggests that the ONA charges and tariffs should be determined basing on the straight-line annualisation of the historical relevant costs of the network assets over their economic lives as determined with reference to bench-marking period suggested by the TA. The relevant costs should allow for a fixed percentage mark-up so as to cover the incremental overhead costs incurred by the MNOs, but should not include any holding gains or losses of the network assets. Company specific WACC should be applied.

4. Periodic Review

- 4.1 NWPCS supports TA's view that the guidelines should be reviewed no less frequent than every three years. In addition, further consultation paper within the industry should be sought during such periodic review such that comments from respective operators can be obtained.

Date this the 6th day of October 2004.

Submitted by

New World PCS Limited