



**SUBMISSIONS ON BEHALF OF
AN INTERESTED PARTY:
DRAFT MOBILE BROADBAND
SERVICES REGULATIONS**

ICASA PUBLIC HEARINGS

12 AUGUST 2021



INTRODUCTION

AGENDA

- Relevant ICASA Findings
- Key Concerns and Views
- Practical Effects of Current Market Structures
- Proposed Solutions
- Analysis
 - Ineffective Competition
 - SMP

RELEVANT ICASA FINDINGS

MARKET	INEFFECTIVE COMPETITION	SMP BY VODACOM AND MTN
RETAIL MARKET: mobile retail services provided in regional geographic areas	Yes	Yes
UPSTREAM MARKET 1: wholesale site infrastructure access in local and metropolitan municipalities	Yes	Yes
UPSTREAM MARKET 2: wholesale national roaming services for coverage purposes	Yes	Yes
UPSTREAM MARKET 3A: wholesale national mobile virtual network operator (MVNO)	No	No
UPSTREAM MARKET 3B: wholesale access point name (APN) services (including resellers)	Yes	No

OVERVIEW OF KEY CONCERNS AND VIEWS

UPSTREAM
MARKET 3A
(MVNO)

Ineffective competition

Both Vodacom and MTN have SMP

UPSTREAM
MARKET 3B
(APN)

Both Vodacom and MTN have SMP

WHOLESALE VS
RETAIL PRICES

As a result of the above: wholesale mobile data prices ~ 7 times higher than retail mobile data prices

For so long as the wholesale prices exceed the retail prices to a significant extent: detrimental to end-consumer

DRAFT
REGULATIONS

Due to the market structures and dynamics throughout the mobile broadband services value chain, the above is unlikely to change without at least some regulatory monitoring and/or intervention

s67(4)(d) of the ECA: ICASA must impose appropriate pro-competitive licence conditions on those licensees having significant market power to remedy the market failure

(ICASA should impose upon Vodacom and MTN a mobile broadband wholesale data rate which is lower than the lowest retail rate offered to consumers, whether it is prepaid or post-paid)

PRACTICAL EFFECTS OF CURRENT MARKET STRUCTURES

- Wholesale mobile data rates offered to MVNO's (and APN resellers) are significantly more expensive than the retail rates offered to end users
 - current wholesale data price offered to MVNO's and APN resellers: R40 to R60 per GB
 - up to **7.5 times** higher than retail prices, despite hundreds, if not thousands, of times greater volumes purchased by a wholesale customer versus a retail customer (~2,500 times more than the largest retail data bundle volumes)
 - impossible for MVNO's and APN resellers to be competitive

PRACTICAL EFFECTS OF CURRENT MARKET STRUCTURES (CONTINUED)

EXAMPLES:

CATEGORY	RETAIL RATE PER GB	~WHOLESALE RATE PER GB	RATE DIFFERENCE
My MTN Choice 20GB at R149	R7,45	R50	6,7 times
MTN Bozza 30GB for R199 with 15GB day time and 15GB night time	Average: R6,63	R50	7,5 times
Contract / post-paid: SIM only deal of 150GB for R349	R2,33	R50	21,5 times

Note:

1. As we understand the wholesale data rate can range between R40 and R60 per GB, we will simply used R50 per GB for illustrative purposes
2. We were not able to obtain Vodacom's MVNO and/or APN wholesale rates (our client is under the impression that Vodacom does not offer wholesale products for MVNO or APN Resellers) and have accordingly been confined to using examples in relation to MTN

PRACTICAL EFFECTS OF CURRENT MARKET STRUCTURES (CONTINUED)

- Retail rates offered to end users only competitive for high volume data users
 - limited volume bundles are more expensive
 - those consumers that can only afford low volume prepaid bundles, are the ones that suffer most by having to pay inflated rates
 - creates an anti-poor pricing scenario
- Long term solution to reverse the anti-poor pricing:
 - better enable MVNOs and APN resellers to compete with MNOs in the downstream retail market
 - should be achieved by facilitating competition in the wholesale markets (requiring at least some degree of regulation)
 - Competition in the wholesale market will facilitate competition amongst MVNO's and ISPs who have proven their ability to significantly reduce broadband pricing when given access to reasonable wholesale input costs
- Regulating the wholesale rate will increase competition in the downstream market, bring down the cost of mobile data for consumers and put an end to the anti-poor pricing policies of the MNO's

PROPOSED SOLUTIONS

- Supportive of ICASA's monitoring of wholesale and retail data prices
- However, more is required if wholesale prices continuously and significantly exceed retail data prices
- Accordingly, the following in-principle amendments to the draft regulations have been proposed:
 1. If any category of retail price is below any wholesale price in relation to any SMP operator, ICASA should immediately inform the Competition Commission thereof and provide all such supporting documentation to the Competition Commission as the Competition Commission may require from time to time.

PROPOSED SOLUTIONS (CONTINUED)

2. If any category of retail price is below any wholesale price in relation to any SMP operator (“***Inflated Wholesale Price***”) and the SMP operator has not provided ICASA with satisfactory evidence and explanations showing that the differential is cost based or temporary, ICASA should be entitled to require the SMP operator to:

- **reduce** its wholesale price to a wholesale price which is less than the lowest comparable retail price; and
- **credit or reimburse** any customer which purchased from the SMP operator at the Inflated Wholesale Price, with an amount equal to the difference between the retail price and the Inflated Wholesale Price,

for a period which is equal to the period during which the SMP operator charged the Inflated Wholesale Price.

PROPOSED SOLUTIONS (CONTINUED)

3. SMP operators must submit detailed and fully auditable supporting data and evidence of the cost per Gigabyte for total data used. This cost is to include only the direct network costs applicable to provide a wholesale data service and any indirect costs and overhead costs are to be excluded from the calculation of the cost per Gigabyte of total data used.



INEFFECTIVE COMPETITION AND SMP

INEFFECTIVE COMPETITION IN UPSTREAM MARKET 3A (WHOLESALE MVNO)

- MVNOs need access to, amongst other things, all of the following infrastructure and resources:
 - RAN, Core Network, Backhaul, Spectrum, Coverage
- **Only MNOs** can provide MVNOs with access to the above infrastructure and resources
 - Dependency (same as Upstream Market 2 and 3B)
 - Bargaining Dynamics
- MNOs and MVNOs compete in the downstream retail market
 - Incentive to deny access

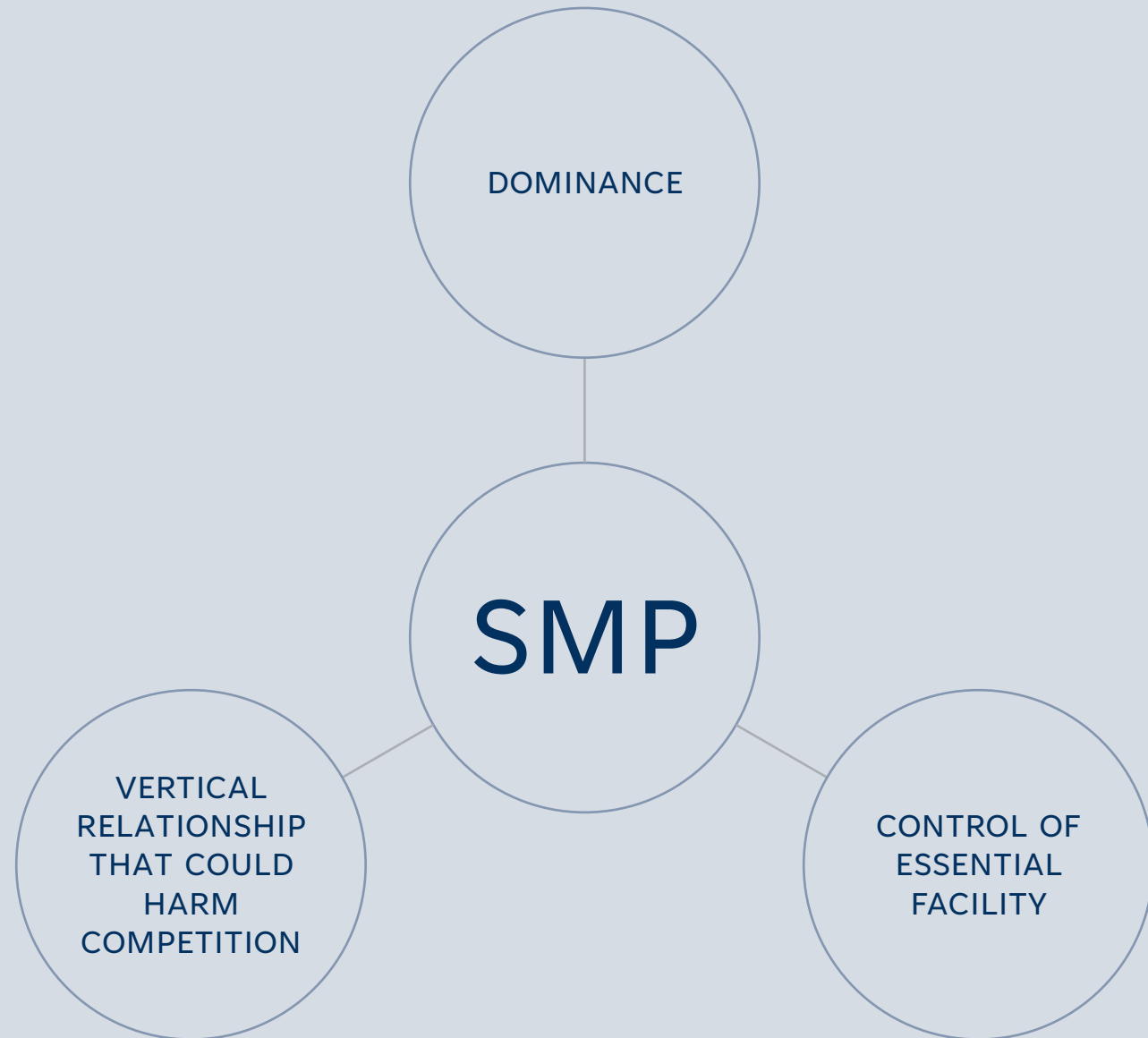
INEFFECTIVE COMPETITION IN UPSTREAM MARKET 3A (WHOLESALE MVNO) (CONTINUED)

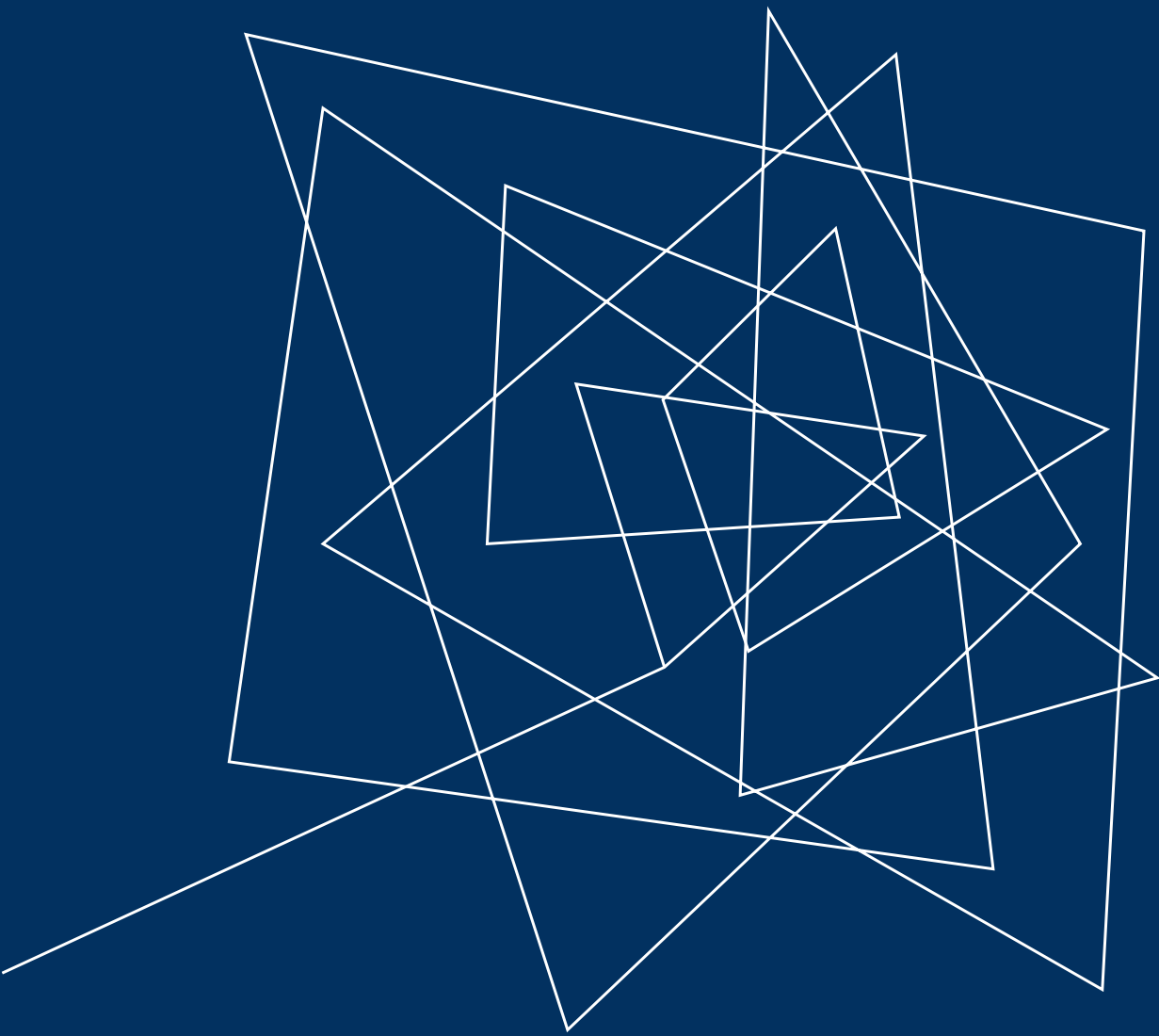
- ICASA has found competition in Upstream Market 3B to be ineffective
- Upstream Market 3A and 3B are very similar:
 - the APN reseller sells services which are wholly dependent on the infrastructure (RAN) and resources (spectrum and coverage) of the MNO, much like the MVNOs are wholly dependent on the infrastructure of the MNOs
 - the APN reseller has very little bargaining power regarding the input costs charged by the MNO, much like the MVNO's have little to no bargaining power

INEFFECTIVE COMPETITION IN UPSTREAM MARKET 3A (WHOLESALE MVNO) (CONTINUED)

- ICASA has found that
 - ineffective competition in:
 - upstream wholesale site infrastructure access market;
 - upstream wholesale national roaming coverage market; and
 - wholesale APN market;
 - the result of these uncompetitive upstream markets is an ineffective downstream retail market
- It follows logically that there must be ineffective competition in the wholesale MVNO market as it seems **impossible for this single market to be effectively competitive when the markets upstream and downstream thereof are not competitive**

SMP IN UPSTREAM MARKETS 3A AND 3B





THANK YOU

The image features a dark blue background with a complex, abstract white line art design on the left side. The lines are thin and white, creating a series of overlapping, irregular shapes that resemble a stylized, geometric pattern. The word "QUESTIONS" is centered in the middle of the page in a white, sans-serif font.

QUESTIONS