

14 June 2022

Mr Bruce Mikkelsen
General Manager (A/g) Merger Investigations
Australian Competition and Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

By email

Dear Mr Mikkelsen,

Proposed Telstra/TPG Spectrum Sharing Agreement

Macquarie Telecom Group welcomes this opportunity to make a submission to the Australian Competition and Consumer Commission's (ACCC) market inquiries into Telstra Corporation Limited (Telstra) and TPG Telecom Limited's (TPG) application for merger authorisation for proposed spectrum sharing in regional Australia under the *Competition and Consumer Act 2010* (Cth).

Macquarie Telecom is part of the Macquarie Telecom Group and is a full-service provider of data, voice, mobile and colocation services to mid-large business and government customers. Macquarie Telecom is a member of Commpete.

We have had the opportunity to review the submission made by Commpete to this inquiry and agree with that submission. We consider that authorisation of the proposed transaction would substantially lessen competition in the market and that there are no countervailing public benefits.

Macquarie Telecom has been a provider of mobile virtual network operator (**MVNO**) services to its business and government customers for many years. Over this time Macquarie Telecom has negotiated for, and acquired, wholesale mobile services from each of the mobile network operators (**MNOs**) at various times. Telstra has generally had the best regional network coverage of the MNOs and, as regional coverage can be critical for many government and business customers that have offices in regional centres, Macquarie Telecom has often sought to acquire wholesale mobile services from Telstra.

It has been Macquarie Telecom's experience in acquiring these services that Telstra wholesale mobile offerings:

- provide less geographic coverage than is available to Telstra retail customers;
- have significantly delayed access to technological improvements (including for example, in turn, 3G, 4G and 5G) for a substantial period after they became available to Telstra retail customers;
- frequently place restrictions on the ability of the access seekers to provide certain services – for example machine to machine (M2M) and internet of things (IOT) services;
- have limited access to higher technical layers and limited access seekers' ability to provide innovative billing and other solutions to its customers; and

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- provides pricing which makes it difficult for access seekers to compete on price with Telstra's retail business.

In short, Telstra is generally a 'reluctant' wholesaler that generally seeks to keep its wholesale customers at a disadvantage relative to its retail customers. Macquarie Telecom has little if any bargaining power when attempting to negotiate with Telstra in relation to these issues.

Macquarie Telecom considers that the proposed Telstra/TPG deal will substantially lessen competition by increasing Telstra's dominance in regional communications and giving Telstra access to additional spectrum in contravention of the design of the spectrum auction process.

As Telstra is already the dominant MNO, the proposed deal will further entrench Telstra's dominance. Telstra's past actions tell us that, in the absence of enhanced regulation of wholesale mobile services, it will use its increased dominance to continue to restrict the ability of wholesale customers/MVNOs to compete on a level playing field.

As noted in the Commpete submission, the advent of 5G technologies creates much more favourable conditions for neutral hosting solutions to become more significant in the market. This has the potential to greatly enhance both economic efficiency and competition in the mobile market. Increasing Telstra's dominance in the regional mobile sub-market will diminish the opportunities for competition enhancing neutral hosting models to emerge and will reduce the viability of the wholesale market and decrease the ability of MVNOs to compete effectively. Macquarie Telecom does not consider that there are any countervailing public benefits which arise from the proposed transaction.

We would be happy to discuss these issues further with you when convenient.

Yours sincerely



Matthew O'Rourke
Head of Policy & Regulatory Affairs