



TELSTRA GROUP LIMITED

ACCC Regional Mobile Infrastructure Inquiry 2022-23: Report on Preliminary Findings

Public version

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[CIC begins] = information not to be released without a confidentiality undertaking

General



CONTENTS

INTRODUCTION	3
00 Feedback on Executive Summary	3
Impact of satellite technologies on decisions to provide mobile infrastructure	3
Tower costs and capacity	3
Impact of tower business divestments	4
Regulation governing access to infrastructure	4
Demand for the provision of towers and provision of access to them	5
01 Feedback on Section 1 – Background	5
02 Feedback on Section 2 – Regional mobile consumer experiences and perspectives	5
03 Feedback on Section 3 – The costs of providing towers and associated infrastructure	5
3.1. Build costs for new towers	5
3.2. Options for capacity upgrades in remoter areas	6
04 Feedback on Section 4 – Land access	7
05 Feedback on Section 5 – Existing commercial and regulatory arrangements for tower access	7
5.1. Commercial arrangements for access to towers	7
5.2. Regulatory arrangements	7
06 Feedback on Section 6 – Demand for provision of towers and access to them is derived from the demand of mobile network operators	8
6.1. Investment decisions of MNIPs	8
6.1.1. MNO considerations in deciding to access existing towers or seek new tower builds	8
6.1.2. Government funding assistance	9
07 Feedback on Section 7 – The impact of mobile market competitive dynamics on regional mobile coverage and demand for towers	11
7.1. Drivers of providing greater mobile coverage	11
7.1.1. Telstra and Optus invest significantly in regional areas, to differentiate themselves	12
7.1.2. Barriers to expansion by mobile network operators	12
7.2. Spectrum access	13
08 Feedback on Section 8 – The implications of tower divestment on access to towers	14
8.1. Towers held by Amplitel	14
8.2. Terms of access post-divestment	15
09 Feedback on Section 9 – Temporary mobile roaming	16

General



INTRODUCTION

Telstra welcomes the opportunity to provide feedback on the ACCC's report on preliminary findings from its Regional Mobile Infrastructure Inquiry (**Preliminary Report**). We note the ACCC will provide a more comprehensive final report to the Minister by 30 June 2023 (**Final Report**).

Based on our review of the Preliminary Report, we expect the Final Report will provide a helpful evidence base from which the Government can draw to support its future policy decisions supporting improved connectivity for regional Australia.

In a few cases, we consider the text in the Preliminary Report should be amended or supplemented to ensure accuracy and completeness. We provide this feedback below (mirroring the format of the Preliminary Report). We have not sought to repeat submissions already made in our initial consultation response. However, we would be happy to answer any questions on these, or on the other information we have provided to the ACCC during the inquiry, as the ACCC prepares its Final Report.

Finally, we note that Amplitel is responding separately on the Preliminary Report. This response should be read in conjunction with the feedback from Amplitel.

00 Feedback on Executive Summary

Impact of satellite technologies on decisions to provide mobile infrastructure

We notice the Preliminary Report makes no reference to services delivered via satellite technologies, which in some cases are an emerging alternative to terrestrial mobile services for coverage in regional and remote areas. We consider the ACCC's Final Report should have regard to current and emerging satellite technology, within the scope of clauses 5(2)(e)-(f) of the Minister's Direction.

Australia's size and low population density means that terrestrial-based mobile coverage will never cover every part of our enormous country. After thirty years of public and private investment, around two-thirds of Australia's landmass does not, and remains unlikely to have, terrestrial mobile coverage that uses current technology. At the same time, the versatility and reliability of satellite technology continues to improve, making it an increasingly attractive option for improving regional connectivity. This technology has entered an exciting new phase as low-Earth orbiting (**LEO**) satellites become more common.

As explained in our consultation response, Telstra is currently working on options to use the features of LEO satellites — like low-latency and coverage right across the country in even the most remote locations — to support our network and to deliver new products to our customers. In future, we expect LEO satellites to play an important role in delivering connectivity in regional and remote areas. This includes broadband services, applications to help improve agricultural productivity, as well as future direct-to-handset (**DTH**) connectivity which would allow mobile handsets to make calls and send messages when they are out of range of existing networks.

Many companies are competing to be the leading provider of LEO satellite technology, and each is approaching the technical, regulatory, and financial hurdles involved differently. More research, innovation and investment will be needed as providers race to demonstrate and deliver on the early promise of the technology. Nevertheless, we believe the ACCC's Final Report should reference the existing evidence supporting the potential of LEO services to extend connectivity into those parts of Australia currently lacking in traditional mobile coverage, including through future DTH capability.

Tower costs and capacity

We recommend the inclusion of some additional words in the following statement in the Executive Summary for accuracy:

General



*“Tower construction and build costs **can vary materially by site but will generally tend to increase with the remoteness of a site.** Costs that increase with remoteness may include:*

- *deploying the required personnel to remoter locations*
- *creating access roads, connecting the site to power and connecting to backhaul....”*

The following finding in the Preliminary Report is quite general and quite strong “*Most towers in remoter areas appear to be at capacity.*” We expect it will be helpful for the Final Report to provide some more details explaining the evidence supporting this finding, together with any relevant qualifications.

To help ensure the Final Report paints a complete picture, we recommend the inclusion of some additional explanatory words (in bold below) in the following finding:

*“While new tower design and construction costs generally make allowances to accommodate multiple mobile network operators in urban areas, this is less likely in more rural and remote areas where demand for multiple mobile operators is lower. **In rural and remote areas subscriber numbers covered by towers are also typically lower – hence infrastructure providers have incentives to keep deployment costs down to support the financial viability of their investment.** As such, towers in rural and remote areas are **more likely to provide for a single mobile network operator.**”*

Impact of tower business divestments

We recommend a slight reframing of the following statement to improve accuracy:

“We have consistently heard that mobile network infrastructure providers (including Amplitel, Indara and Waveconn) have the incentive to increase the number of mobile operators co-located on towers as this leads to higher revenues. However, this incentive appears to lesson with remoteness.”

We consider that mobile network infrastructure providers have the same incentive to increase the number of tenants located on their towers, regardless of the location of the tower. However, as a practical matter, we accept that it may be more difficult to attract additional tenants in more remote locations (and/or not feasible, depending on the constraints of the existing infrastructure).

We do not consider the following heading in the Executive Summary to be factually accurate:

“Divestment of tower assets may have changed the incentives for some industry players, however most regional, rural and remote towers are still owned or controlled by Telstra”.

For example, the ACCC’s 2022 Mobile Infrastructure Report reports 5,745 Telstra sites located outside of Major Cities. Telstra’s competitors Optus and TPG are reported to have 4,729 sites located outside of Major Cities (only 20% less sites than Telstra)¹. It is also important for the Final Report to acknowledge that many of the sites on which Telstra’s equipment is located are now operated by Amplitel. Amplitel is an independent company from Telstra and Telstra is not involved in the day-to-day operation of Amplitel’s business

Regulation governing access to infrastructure

We note the ACCC’s stated intention (consistent with the directions from the Minister) for the Inquiry to provide findings, not recommendations. The following statement appears to be more in the nature of a recommendation than a finding. “*We consider the uneven application of the regulatory framework warrants further review and consideration by government.*”

¹ [Mobile Infrastructure Report 2022.pdf \(acc.gov.au\)](#), Table 4.1



Demand for the provision of towers and provision of access to them

It appears the words “mobile network infrastructure providers” have erroneously been used instead of the words “mobile network operators” in the following sentence:

*“The investment decisions made by the **mobile network infrastructure providers** are primarily driven by gaining or retaining market share in the downstream retail market for mobile services.”*

01 Feedback on Section 1 – Background

We have no comments on this section of the Preliminary Report.

02 Feedback on Section 2 – Regional mobile consumer experiences and perspectives

We have no comments on this section of the Preliminary Report. The findings are generally consistent with the feedback we receive from our customers and stakeholders in regional and remote locations.

03 Feedback on Section 3 – The costs of providing towers and associated infrastructure

3.1. Build costs for new towers

We agree with the ACCC’s assessment that build costs for new towers are impacted by remoteness. However, we recommend the Final Report also explains that even within the same remoteness zone, these costs can vary materially by site.

We consider footnote 29 to be inaccurate. We do not agree that page 33 of Telstra’s consultation response supports the following statement in the Preliminary Report. We therefore recommend this statement is either substantiated with an alternative source of evidence, or deleted from the Final Report:

“In urban areas, mobile network operators are more concerned with providing dense coverage and sufficient capacity, due to there being a higher population in a smaller geographic area”.

For accuracy and completeness, we recommend a reference to satellite backhaul is included in the following sentence (per the additional words suggested in bold):

*“Remoter sites will also tend towards having microwave **or satellite** backhaul due to larger distances between sites, and this microwave backhaul can be over multiple radio hops.”*

We agree with the following statement. However, as sites which involve small cells (commonly coupled with satellite backhaul in remote areas) are typically not suitable for multiple tenant use at any stage, we recommend clarifying that this statement relates to macro sites (which may be done by adding the wording in bold below):

*“**For macro sites**, it is generally cheaper to consider the likelihood of multiple tenants during the initial build of a tower site, than to later upgrade it to support multiple tenants”.*

We also recommend the Final Report clarifies that there can be practical reasons why site capacity in some locations may be lower on a like-for-like basis, although not necessarily universal to all regional or remote sites. For example, due to higher build standards in areas with hostile weather conditions (e.g., cyclonic winds) which have the effect of reducing site loading capacity, or because of the backhaul technology used (e.g., microwave backhaul has less capacity than fibre).

We note the evidence cited in support of the following statement is a submission by NBN Co, in relation to sites on which NBN Co has chosen to co-locate for delivery of its fixed wireless services:

General



“It appears that most existing towers in remoter areas are at capacity”.

We consider that the Final Report should make it clear that this statement relates to NBN Co co-location sites for delivery of NBN Co fixed wireless services, rather than relating to sites on which mobile network operators (**MNOs**) may wish to co-locate for delivery of mobile services (unless it is to be supported by other evidence gathered by the ACCC during its Inquiry, in which case this additional evidence should be explained in the Final Report).

We also consider that it is important for the Final Report to make it clear that lower overall capacity of a tower does not necessarily mean less capacity available *per expected end-user* of that tower. **[c-i-c] [c-i-c]**.

3.2. Options for capacity upgrades in remoter areas

It is correct that there is an increasing amount of small-cell infrastructure being built in more densely populated areas. However, the Final Report should also acknowledge the use of small cells, for example small cells using satellite backhaul, as an important option for cost effectively extending mobile coverage in more remote locations.²

We consider that the following text in the Preliminary Report should be qualified in the Final Report:

“In remoter areas, the tendency is to consider upgrades to antennas on existing structures, which can lead to structural upgrade costs”.

To support the economic viability and technical feasibility of deployments in more remote areas, often the infrastructure consists of light, small structures such as small cells and slimline poles. Some of these structures simply aren't strong enough to support the antennas of more than one MNO, noting that some structures in remote areas are also solar powered, so need to support the solar power panels as well.

Further, structures for small cells are typically specifically designed to just meet the minimal need of a single cell. Accommodating multiple small cells for multiple operators (passive sharing) would require the building of a bigger and more costly structure, more akin to what's required for a macro site. This upgrade cost alone can amount to more cost than if separately sited individual carrier small cells were built to minimal standards.

Small cells by design are power limited and this also limits their utility for active sharing. Adding more end-users requires more capacity to support them, and with the limited power budget of small cells this effectively reduces the coverage area of the small cell.

Lastly, as noted above, some of these remote deployments (which are a long way from the nearest fixed infrastructure) use satellite backhaul. This is very costly, and reserved capacity needs to be limited to the minimum required for viability. Adding additional end-users is likely to degrade the end-user experience such that some basic online activities become unreliable or impossible. The alternative is to upgrade the satellite backhaul capacity, but the cost of this is non-trivial.

² See e.g., <https://www.telstra.com.au/aboutus/media/media-releases/Telstra-signs-first-customer-and-launches-the-Telstra-4GX-lite-Mobile-Satellite-Small-Cell-to-bridge-coverage-gap>; <https://birraus.com/2019/03/18/what-is-a-mobile-small-cell/> and <https://www.zdnet.com/home-and-office/networking/optus-boosts-coverage-across-australia-with-small-cells/>



04 Feedback on Section 4 – Land access

We have no comments on this section of the Preliminary Report.

05 Feedback on Section 5 – Existing commercial and regulatory arrangements for tower access

5.1. Commercial arrangements for access to towers

We consider matters going to the bargaining position between mobile network infrastructure providers (**MNIPs**) and MNOs are more nuanced than suggested in the first line of this section in the Preliminary Report. We therefore recommend amending this sentence in the Final Report to a simpler and less subjective factual finding, as follows:

“We understand that each of the mobile network operators have a long-term agreement in place with a mobile network infrastructure provider, which they have negotiated during the course of the sale of their assets to the mobile network infrastructure provider”.

For clarity, in the second paragraph, the words “mobile network providers” should be replaced with the words “mobile network infrastructure providers”.

We are concerned that the inclusion of the following statements in the Final Report could be misleading:

“...it may also be the fees payable to mobile network infrastructure providers for co-location have increased post-divestment.”

“Access fees post-divestment may be higher to account for the recovery of capital outlay...”

The ACCC should determine on the evidence before it whether co-location fees payable to MNIPs for access to towers in regional, rural, remote, and peri-urban areas (noting the geographic limitations on the scope of the ACCC’s Inquiry) have increased post-divestment, stayed the same, or decreased. If this is unclear on the evidence, then we consider the Final Report should simply state that this is unclear, rather than suggesting one of these states of affairs “may” be the case.

5.2. Regulatory arrangements

In so far as the following sentence in the Preliminary Report refers to Amplitel as an MNIP, we do not consider it to be accurate:

“Our understanding is that mobile network infrastructure providers consider that they do not need a carrier licence. This is because they rely on contractual arrangements with the mobile network operator to use the carrier’s power and immunities under the Telco Act when needed”]

The reason Amplitel does not have a carrier licence is because Amplitel’s infrastructure does not meet the requirements to have a carrier licence under Part 3 of the *Telecommunications Act 1997 (Cth)*. The carrier licence regime covers an owner of a network unit used to supply carriage services to the public (unless an exemption applies). Amplitel’s infrastructure does not fit within the definition of network unit and Amplitel does not supply carriage services to the public.

We note the ACCC’s stated intention (consistent with the directions from the Minister) for the Inquiry to provide findings, not recommendations. The following statement appears to be more in the nature of a recommendation than a finding. *“We consider the uneven application of the regulatory framework warrants further review and consideration by government.”*

General



06 Feedback on Section 6 – Demand for provision of towers and access to them is derived from the demand of mobile network operators

6.1. Investment decisions of MNIPs

6.1.1. MNO considerations in deciding to access existing towers or seek new tower builds

There appears to be a typo on page 32 – “*the demand for mobile network operators for access to the infrastructure*” should read “*the demand **from** mobile network operators for access to the infrastructure*”.

For clarity, we recommend the insertion of additional words (in bold) in the following sentence:

*“Waveconn submits that mobile network operators are capital constrained **in funding** for deployment of new towers...” (p 33)*

We request that the word “this” in the following sentence is replaced with the word “the”:

*“Vocus submits that **this** coverage dominance of Telstra means that Telstra has limited, if any, incentive to share infrastructure”.*

Use of the word “this” may incorrectly imply that Telstra’s incentives to maintain and improve its market share in Australia’s highly competitive national retail mobile market amount to protecting or enhancing a position of market dominance.

Vocus’ assertion that Telstra has “*limited, if any, incentive to share infrastructure*” is also demonstrably incorrect and we would ask the ACCC to call out the evidence to the contrary in its Final Report. The ACCC’s 2022 Regional Mobile Infrastructure Report reveals that Telstra in fact co-locates with other MNOs on over a third of our sites (35%), including in respect of 35.8% of our sites in inner regional locations, 25.6% of our sites in outer regional locations, 11.9% of sites in remote areas and 4.8% of our sites even in very remote Australia.³ As the ACCC is well aware, Telstra has also recently proposed to enter into a transaction with TPG which would see us engaging in active sharing of our network in additional regional and urban fringe areas comprising approximately 17% of the Australian population. It is also important context to Telstra’s incentives that, as explained in section 5.2.5 of the Preliminary Report, Telstra and Amplitel are obliged to provide access to their infrastructure on regulated terms under the facilities access regimes set out in Part 34B and Parts 3 and 5 of Schedule 1 of the Telecommunications Act.

These observations are equally applicable in demonstrating the inaccuracy of Waveconn’s assertion that “*mobile network operators do not have the incentive to encourage co-locations on tower infrastructure, , since increased co-locations will drive increased competition...*” (p 34). Such assertions should not be referenced in the Final Report without at least being tempered by the contrary findings set out in the ACCC’s 2022 Regional Mobile Infrastructure Report that:

“Co-location is one way to reduce the cost of site deployment. Reducing the cost of site deployment enhances the ability of MNOs to expand mobile infrastructure to improve the breadth or depth of their coverage, thereby promoting delivery of competing downstream services” (p 5),

supported by the evidence that, in addition to Telstra being co-located with other MNOs on 35% of our sites, TPG has chosen to co-locate with other MNOs on 90% of its sites and Optus on 70.5% of its sites.⁴

³ See [Mobile Infrastructure Report 2022.pdf \(acc.gov.au\)](#), Table 4.5, p. 16.

⁴ [Mobile Infrastructure Report 2022.pdf \(acc.gov.au\)](#), Table 4.5, p. 16

For accuracy and completeness in the Final Report, we do not believe the reference to the potentially anti-competitive practice of reserving space on a tower site mentioned on page 34 of the Preliminary Report should be included without the Final Report clarifying that the potential for this to take place is now prevented by the new mandatory ‘use it or lose it’ timeframe of 24 months for infrastructure owners to use reserved capacity to install equipment or be removed from the queue.⁵

6.1.2. Government funding assistance

The accuracy of the following statement in the Preliminary Report would be improved in the Final Report if the words “underlying incentives created by” were replaced by the words “design of”:

“We have received submissions that the low rate of co-location on Mobile Black Spot Program towers is a result of the underlying incentives created by the program” (p 35)

We have concerns with the accuracy of the following statement in the Preliminary Report:

“In previous rounds of the Mobile Black Spot Program, sites were awarded funding for generating new coverage. This meant that there was the incentive for mobile network operators with more expansive existing coverage to extend that coverage, disincentivising those with smaller coverage footprints from participating” (p 36)

Table 4.3 in the ACCC’s 2022 Mobile Infrastructure Report shows that approximately 20% of sites in the Federal Government’s Mobile Blackspot Program between 2020 and 2022 have been awarded to Optus and TPG, despite their less expansive coverage than Telstra. It is thus clear that Optus and TPG were not disincentivised from participating, as suggested in the Preliminary Report. More accurate wording would explain that the requirements to generate new coverage may have made it more difficult for operators with smaller coverage footprints to find sites meeting this requirement that aligned with their commercial priorities for extending coverage.

In the Final Report, we believe the ACCC should qualify the following statement in the Preliminary Report:

“A concern raised at the industry stakeholder forum was that for smaller mobile network operators or other providers, such as those providing neutral host solutions, to participate in funding would require investment in areas beyond the coverage footprint of Telstra or Optus. This results in ‘islands’ of coverage which are distant from the rest of the network of a smaller mobile network operator. While such government funding programs may provide immediate benefits to consumers in the form of coverage or improved network quality, some stakeholders submitted this outcome is in tension with competitive outcomes due to further entrenching Telstra’s market dominance.” (p 36)

To the extent that a smaller MNO or a neutral host is successful in obtaining government funding support to extend coverage in a regional location which is beyond the footprint of Telstra or Optus, it is difficult to see how this outcome would be likely to increase any market power of Telstra in the downstream national retail mobile market.

Footnotes 131 and 132 refer exclusively to submissions by TPG, yet the text refers generically to “some stakeholders” and “stakeholders”. Unless these statements are supported by evidence from other stakeholders, they should be attributed to TPG in the Final Report.

The contention by Vocus referred to on page 36 of the Preliminary Report that Telstra’s significant coverage advantage means that Telstra has little incentive to pursue infrastructure sharing opportunities such as neutral host models is incorrect. The reasons why we don’t support neutral host models include

⁵ See <https://www.accc.gov.au/by-industry/telecommunications-and-internet/transmission-services-and-facility-access-regulation/facilities-access-code-review-2019/final-report>



the risk of losing service features, the propensity for technical challenges on matters such as managing interference and network synchronisation, and the availability of other alternative models which are better suited to the Australian market. Our preferred model for infrastructure sharing is for a commercially agreed, MNO led active sharing model such as a MOCN because we think this approach can deliver the best outcomes from a technical, commercial and customer experience perspective. We do, however, recognise that there are a number of models for infrastructure sharing and that different industry participants may have different preferences in relation to these. This is why we have suggested that co-investment programs, in order to maximise the benefit or the amount of infrastructure that is rolled out from the funding made available, maintain flexibility for program participants to match models with circumstances as opposed to mandating the use of one approach above all others. These reasons are explained in detail in Telstra's consultation response. For balance, the Final Report should include Telstra's perspective on this matter.

We do not believe the evidence presented to the ACCC or otherwise available supports the ACCC's conclusion that "...if government funding programs were focussed on multi-carrier infrastructure sharing, such sharing would need to be mandated". (p 36):

- Section 7.3 of our consultation response sets out a range of flexible and practical ways in which future government co-funding programs could be enhanced to improve the prospects of multi-carrier coverage, simply through program design.
- Conversely, we explain in section 5.3 of our consultation response why we believe mandated requirements for active sharing are likely to be ineffective and counterproductive.
- In section 5.1 of our consultation response, we also explain that a supplemental improvement to future Government funding initiatives could entail a model where operators are invited to independently identify sites where each is interested in expanding coverage in order for Government to elicit areas of potential multi-carrier interest, *before* the MBSP tender begins (subject to appropriate competition law compliant frameworks for this). As we have subsequently explained in our response to the House of Representatives Inquiry into Co-investment in Multi-Carrier Regional Mobile Infrastructure⁶, the successes of the Victorian Regional Rail Connectivity Project and Peri-Urban Mobile Program (**PUMP**) suggest this is likely to be a fruitful approach for improving rates of passive infrastructure sharing along transport routes and highways and in other defined geographic areas.
- Notably, in the case of the PUMP, the Federal Government took a co-design approach with industry. They met with industry participants in person, and actively took on feedback related to the program structure. The Government also looked to address two key issues Telstra had flagged as blockers to successful co-location in past MBSP programs: (i) that third parties were not aware of any bid for locations until the announcement of successful projects and (ii) that government co-funding money was not available to cover the costs of parties looking to co-locate post the awarding of projects. Telstra was awarded 16 successful projects under PUMP of which 14 were new greenfield builds, where Amplitel will be building a new structure. The Amplitel team has informed us that there is interest in co-location for 4 of these sites. A combination of the geographical areas targeted under PUMP and the program design are expected to result in a c 30% uptake of co-location, whereas past programs have been below 5%.⁷

⁶ Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/House/Communications/Mobileco-investment/Submissions

⁷ Further details are set out in section 4.2.2 of our response to the House of Representatives Inquiry.



07 Feedback on Section 7 – The impact of mobile market competitive dynamics on regional mobile coverage and demand for towers

For clarity in the Final Report, we recommend expanding upon the following statement, to explain that “new mobile coverage” may include new coverage outside of where people live (such as along roads), and that “deeper coverage where there is existing coverage” may include improved indoor coverage.

“The provision of greater mobile coverage includes both the provision of new towers and new mobile coverage, as well as greater capacity or deeper coverage where there is existing coverage” (p 38)

7.1. Drivers of providing greater mobile coverage

We note the following view of the ACCC in the Preliminary Report:

“We consider that mobile network operator’s drive to maintain or obtain greater market share is the most significant consideration in deciding to invest to provide greater mobile coverage. Mobile network operators have little commercial incentive to invest in regional, rural and remote areas if providing new or increased coverage does not impact their market share.” (pp 38-39).

In Telstra’s case, we agree that coverage is a feature that mobile customers value. Accordingly, the ability to deliver that value will impact Telstra’s competitive position in Australia’s national retail mobile market, and therefore factors into our decisions on investment in mobile coverage. However, in the Final Report, we consider it is important the ACCC clarifies that Telstra’s investment in regional, rural and remote areas is not driven primarily by direct market share gains from such coverage. Rather, our incentives to invest in these areas are based on a range of factors including:

- Telstra’s broader competitive strategy under our T25 strategy⁸;
- our Responsible Business Strategy. For Telstra, doing business responsibly means doing the right thing – for our customers, our people and the communities in which we operate.⁹ This is acknowledged later in the Preliminary Report at page 40, where the ACCC refers to the evidence we have provided regarding the pressure we face from Government and other stakeholders over our commitment to regional and rural Australia and that responding positively to these stakeholders by continuing to invest and innovate in service delivery in regional and rural areas is an important motivator in our decision making.
- a desire to differentiate Telstra from other competitors in national mobile markets, including in metropolitan areas;
- expected increases in data consumption requiring investment to avoid congestion; and
- necessary mobile technology upgrades to match mobile handsets as older generations become obsolete.

The intended meaning of the following statement by Field Solutions Group referred to in the Preliminary Report is unclear:

“Field Solutions Group submits that there is a ‘coverage divide’ in Australia mobile networks (sic), despite the efforts of competitors to compete on coverage.” (p 39)

⁸ See <https://www.telstra.com.au/content/dam/tcom/about-us/investors/pdf-g/1121-Telstra-Investor-Day-II-Presentations.pdf> and recent details at <https://www.telstra.com.au/content/dam/tcom/about-us/investors/pdf-h/transcript.pdf>

⁹ See further details in Telstra’s 2022 Sustainability Report at: [Telstra-Bigger-Picture-2022-Sustainability-Report.pdf](#), pp 8-9.



For context in the Final Report, it may be appropriate for the ACCC to note that Telstra’s mobile network provides reliable coverage across 99.4% of Australia’s population (4G), in over 1600 Australian towns and communities.¹⁰

7.1.1. Telstra and Optus invest significantly in regional areas, to differentiate themselves

The following sentence in the Preliminary Report is outdated and provides an inaccurately narrow view of Telstra’s investment incentives:

“Optus’ investments in regional areas has (sic) driven Telstra to invest in response to ensure it maintains network leadership over its rivals” (p. 40).

Optus’ regional investment occurred during its rollout of 4G, which is now complete. Telstra’s investment in the rollout of 5G in regional areas far exceeds that of Optus¹¹ and will continue to be rolled out in accordance with our T25 strategy, irrespective of Optus’ regional 5G investment. We therefore recommend that in the Final Report this sentence is revised along the lines suggested below:

“Telstra invests in regional areas for a number of reasons, including regional expectations of consumers and government, to ensure it maintains overall network leadership over its rivals in national mobile markets (including over rival investments in metropolitan areas), and to continue to be able to service regional customers with growing data consumption adequately.”

7.1.2. Barriers to expansion by mobile network operators

In the Final Report, we request the replacement of the current wording for the heading of section 7.1.2 in the Preliminary Report - “*Telstra’s advantages in regional areas could raise barriers to expansion for rival mobile network operators*” - with more neutral wording focussed on the ACCC’s factual findings. For example, simply “*Barriers to expansion by mobile network operators*” or “*Evidence of barriers to expansion by mobile network operators*”. We are concerned the term “advantages” incorrectly implies an inherent or exclusive advantage held by Telstra, rather than the cumulative impact of successive commercial investment choices made by each of the MNOs in Australia’s highly competitive national retail mobile market.

The inclusion of the words “*for some mobile operators*” in the final sentence in the following paragraph in the Preliminary Report is inaccurate. These challenges impact all MNOs.

“In Australia, all mobile network operators incur large costs to increase regional, rural and remote coverage. This may result in only a small amount of gain in incremental population coverage, and may make it more difficult to justify investments in regional areas for some mobile network operators” (pp 40-41)

We note the reference in the Preliminary Report to TPG’s submission that policy makers and regulators could do more to incentivise network sharing (p 41). For balance and completeness in the Final Report, we consider the ACCC should also refer to the recommendations Telstra provided in our consultation response as to how government could incentivise more network sharing (see for example section 7.3 of our consultation response).

The wording in the following sentence in the Preliminary Report may be misconstrued as an endorsement of Optus’ claims by the ACCC. In the Final Report, we therefore recommend some small amendments (as below) to keep the content factual:

*“Optus has previously ~~noted~~ **asserted** that challenging market dynamics and government policy ~~which~~ have had the effect of entrenching Telstra’s dominance **and that this has** ~~have~~ made it*

¹⁰ <https://www.telstra.com.au/coverage-networks/our-network#:~:text=With%204G%20across%2099.4%25%20of,most%20reliable%20network%20in%20Australia.>

¹¹ See e.g. Figure 4.10 in the ACCC’s 2022 Mobile Infrastructure Report - [Mobile Infrastructure Report 2022.pdf \(acc.gov.au\)](#)



increasingly difficult to maintain its historic levels of investment” (p 41)

For the reasons noted above regarding the sub-heading in section 7.1.2 of the Preliminary Report, in the Final Report we request the replacement of the two references to the words “*Telstra’s coverage advantage*” on page 41 of the Preliminary Report with more factual wording such as “*Telstra’s more extensive network coverage*”.

If included in the Final Report, the following statement in the Preliminary Report needs to be stated with caution:

“It is unlikely that any of Telstra’s competitors will have the realistic ability to absolutely match Telstra’s network coverage in regional areas”. (p 41)

Given the dynamic innovation in mobile technology markets, the ACCC should exercise caution in arriving at a blanket conclusion as to what is “realistic” to match Telstra’s network coverage. As demonstrated above, there is significant activity, focus and investment in technologies that means realistically there will be more opportunities to service customers with mobile coverage in the future. Further, as the ACCC has considered in the past, it is not necessary to match Telstra’s coverage in regional areas to effectively compete with Telstra.

7.2. Spectrum access

We note this section of the Preliminary Report refers to select submissions by Telstra and TPG in support of our proposed network sharing arrangement that have been taken out of the relevant context in which they were provided.¹² We do not believe it is appropriate for the Preliminary Report to refer to these submissions while the matter is still under review by the Australian Competition Tribunal. Importantly, in the ACCC’s Reasons for Determination regarding the proposed network sharing arrangement, the ACCC referred to subsequent relevant evidence by Telstra and TPG that:

*“The Applicants consider that pooling TPG’s currently **under-utilised spectrum is a significantly more efficient and economically viable solution than densification** – from the perspective of regional communities and the public interest more generally.*

*Telstra submits that it anticipates that the benefits of additional network capacity and congestion relief will be delivered almost immediately once the Proposed Transaction is fully implemented. Apart from deploying some new radio equipment, **there is relatively little additional investment or work required for the pooled spectrum to deliver additional capacity and reduce congestion**, and this can be done relatively quickly, as compared to densification.”*
(emphasis added).¹³

It would be misleading for the Final Report to refer to the submissions of Telstra and TPG mentioned in footnote 162 without also referring to this additional evidence by the parties regarding the costs of deploying additional spectrum. Read in totality, we do not believe that this evidence supports the conclusion set out in sub-heading 7.2 of the Preliminary Report that the cost of deploying spectrum may be a barrier to expansion. We therefore recommend that the final para in section 7.2 of the Preliminary Report is struck from the Final Report and the heading in section 7.2 amended to remove this reference.

¹² Namely the final paragraph on page 41 of the Preliminary Report, which is based on the submission extract in footnote 162.

¹³ See paras [10.58]-[10.59] of the ACCC’s Reasons for Determination - [[Document title](#)] (accg.gov.au)

08 Feedback on Section 8 – The implications of tower divestment on access to towers

8.1. Towers held by Amplitel

We request replacement of the word “most” in the heading for this sub-section in the Preliminary Report with the word “many”. On the facts set out in this part of the Preliminary Report, as at 31 January 2022 approximately 16,600 active mobile infrastructure sites were being used by Optus, Telstra and TPG Telecom, with less than half of these sites (c. 8,000) operated by Amplitel.

In the Final Report, we would expect the ACCC to provide factual context going to the likely invalidity of the concerns mentioned in the following sentence in the Preliminary Report:

“Given Telstra has not fully divested its interest in Amplitel, we have heard ongoing concerns around whether the divestments overall have improved accessibility to towers”. (p 43)

These concerns imply Telstra has influence over the commercial terms on which Amplitel provides tower access in regional and remote areas. This is not the case. Amplitel is an independent company focused on delivering returns to shareholders from its infrastructure assets. Telstra is not involved in the day-to-day operation of Amplitel’s business. Amplitel manages the ordering and pricing for access to a tower. This also applies to decision-making about when to build a new tower or change an existing one. Telstra has no rights to reject an Amplitel customer’s order.

For balance and completeness, we consider that the reference to the following submission by Vocus in the Preliminary Report should be supplemented in the Final Report by a reference to the perspective of Telstra and Amplitel on this matter:

“Vocus submits that mobile network infrastructure providers have the incentive to provide neutral-host infrastructure solutions as they would benefit from multiple mobile network operators utilising their infrastructure. Vocus also submits that mobile network operators would not lose any market advantage if all three mobile network operators were able to access the same neutral host infrastructure equally.” (p 43).

In Telstra’s consultation response, we have explained:

“In the case of Telstra’s subsidiary Amplitel, Amplitel has a clear commercial incentive to maximise value from its assets for shareholders by maximising tower access to a range of customers...Amplitel provides services to an increasing range of carriers and other customers”. (Telstra consultation response, p 52)

“As an illustrative exercise, Telstra has compared some of the key considerations arising under examples of Neutral Host and MNO led active sharing models with which we have had recent experience (namely, the NSW Government’s Blackspots Neutral Host trial, and Telstra’s proposed MOCN with TPG). As shown in Table 4 below, this exercise reveals many benefits to outcomes for regional consumers of adopting a pragmatic MNO led active sharing arrangement to achieve cost-effective multi-carrier coverage (such as a MOCN) over a Neutral Host approach...[c-i-c] ...[c-i-c] (Telstra consultation response, pp 32-33)

We stress that Amplitel’s incentives to maximise value from its assets relate to its business as a provider of access to shared passive infrastructure. By contrast, the neutral host model referred to in Vocus’ submission involves the provision of access to shared active infrastructure. Active sharing is complex and requires capability currently sitting with the MNOs. Typically, TowerCos do not have the capability to provide active sharing. Amplitel certainly does not – for example, Amplitel does not have access to spectrum. The knowledge about the provision of active services sits with the MNOs and the jump for Amplitel to offer active sharing would be material.



The following conclusion by the ACCC in the Preliminary Report is based on a misunderstanding of Telstra’s consultation response:

“...since Amplitel is majority owned by Telstra, we consider that any incentive Amplitel has to provide neutral-host infrastructure may be outweighed by Telstra’s concerns that such models could ‘jeopardise optimal regional coverage outcomes’.” (43)

Telstra supports a flexible approach to government co-investment program design, which we strongly believe will result in the best outcomes for regional communities. The concerns raised by Telstra in our consultation response quoted above relate to the risks of future regulatory and policy settings which limit the sharing choices available to operators – such as by trying to “pick winners” or manipulate outcomes between different potential active sharing models.¹⁴ As we explain further in the body of this section of our consultation response, Telstra believes that, to be effective in achieving their desired aims, future approaches to policy and regulation on mobile infrastructure sharing in regional Australia should treat each potential form of RAN sharing (including neutral host models) as simply one option to *expand* the range of network investment choices available to each MNO.¹⁵

8.2. Terms of access post-divestment

Telstra notes that the allegations concerning frustration of access to tower infrastructure referred to in the first paragraph of this section of the Preliminary Report were investigated in detail by the ACCC in its 2019 Facilities Access Code Review.¹⁶ As detailed in the ACCC’s June 2020 Final Report following this review, Telstra explained in response at the time that the mandatory queueing provisions in the Facilities Access Code addressed these concerns, and that Telstra only denied access when we already had a request populated in our reservations database. We further explained that our own requests to convert reserved spaces went into the ordering queue on a non-discriminatory basis with requests from other carriers.¹⁷

Optus and NBN Co agreed with Telstra that no changes to the queueing policy were needed.¹⁸ In its June 2020 Final Report, the ACCC recognised that carriers take into account both current and future capacity needs when building sites and clarified that it had no intention to remove a carrier’s ability to reserve capacity for its legitimate plans to install equipment.¹⁹ Nevertheless, the ACCC recommended that the Facilities Access Code be amended to include a mandatory ‘use it or lose it’ timeframe of 24 months for infrastructure owners to use reserved capacity to install equipment or be removed from the queue.

These protections preventing the ability to engage in the frustration of access raised by Waveconn and TPG referenced in section 8.2.1 of the Preliminary Report and ensuring reserved capacity is either put to good use or “freed-up” as advocated for by Field Solutions Group in its submissions referenced in section 8.2.2 of the Preliminary Report, were introduced in 2020. They thus pre-date the divestment of the MNOs’ towers businesses by some several years. Telstra therefore disagrees that these matters support the conclusion in the Preliminary Report suggested by the heading of Section 8.1.1 - namely that *“Pre-divestment terms were less favourable towards co-location”*.

The following submission by TPG referred to in the Preliminary Report insinuates that, historically, co-locating MNOs were allocated a lower position on towers to reduce their delivered coverage for competitive advantage:

¹⁴ As outlined in the bullet point on page 24 of our consultation response immediately preceding the bullet point quoted in Preliminary Report.

¹⁵ See page 31 of our consultation response.

¹⁶ See <https://www.accc.gov.au/by-industry/telecommunications-and-internet/transmission-services-and-facility-access-regulation/facilities-access-code-review-2019/final-report>

¹⁷ <https://www.accc.gov.au/system/files/TFA%20-%20Facilities%20Access%20Code%20Review%20-%20Final%20Report%20June%202020.pdf>, pp 20-21

¹⁸ Ibid, p 21.

¹⁹ Ibid, p 22.



“TPG Telecom also submitted that historically, the second mobile network operator locating on a tower was given an artificially lower position on the tower, which led to inferior signal propagation compared to that which is available to the mobile network operator that owned the tower.” (p. 44).

We do not believe there is any merit to this allegation. The separation between operator equipment on towers is an industry norm following best practice for technical and health and safety reasons, including to manage interference. Telstra has seen no evidence of the position on a tower allocated to a co-locating MNO being set artificially lower than required for legitimate reasons. For balance in the Final Report, we would ask the ACCC to refer to our view on this matter.

For the same reasons set out in our response to the Executive Summary in the Preliminary Report, we have concerns with the ambiguity of the following sentence in section 8.2 of the Preliminary Report:

“This suggests that prices for access to towers may not have decreased post-divestment” (p 46).

The ACCC should determine on the evidence before it whether prices for access to towers in regional, rural, remote, and peri-urban areas have stayed the same post-divestment, decreased or increased. If this is unclear on the evidence, then we consider the Final Report should simply state that this is unclear, rather than suggesting one of these states of affairs “may” be the case.

09 Feedback on Section 9 – Temporary mobile roaming

We have no comments on this section of the Preliminary Report. We consider it accurately reflects the relevant evidence on the feasibility of providing temporary mobile roaming services during natural disasters and other such emergencies.