

13 August 2021

To Tom Lyle
Australian Competition and Consumer Commission
By mail: exemptions@accc.gov.au

Dear Mr Lyle

Telco Together Foundation & Ors – Application for authorisation (AA1000555)

This letter is provided in response to the Australian Communications Consumer Action Network (**ACCAN**) submission dated 9 July 2021, in respect of the application for authorisation made by Telco Together Foundation (**TTF**) on behalf of itself and its members 26 May 2021 (**Application**). Defined terms used in this letter have the same meaning as set out in the Application.

TTF welcomes ACCAN's support for its efforts to eliminate modern slavery practices in the operations and supply chains of the telecommunications industry. TTF observes that the ACCAN submission does not appear to raise any substantive competition concerns with respect to the Proposed Conduct, but considers it may be helpful to provide further information and clarification on some matters raised by the ACCAN submission.

Supplier engagement and ACCC oversight

ACCAN has raised a concern that, because the proposed information gathering exercise involves issuing a self-assessment questionnaire to suppliers, this may mean that not all suppliers will engage with the process. For apparent reasons, TTF's members cannot compulsorily require their suppliers to respond to a questionnaire; they must choose to opt-in. Apart from being well outside the scope of TTF's powers and remit to be able to enforce such a system, TTF also acknowledges that any form of compulsion in relation to its questionnaire (or its other modern slavery initiatives) could also risk giving rise to more acute competition concerns. For similar reasons, TTF also does not wish to be in the position of dictating to individual members which suppliers should receive the questionnaire. In practice, this is a decision best left to each member, having regard to the relevant risk profile of their respective suppliers (of which TTF does not have full visibility).

The Proposed Conduct will be governed by the Competition Protocol in Annexure E of the Application, which ACCAN has recognised to be comprehensive. TTF and its members are committed to complying with the Competition Protocol. Further, the reporting commitments outlined at part 3.2 will provide the ACCC with sufficient oversight of the Proposed Conduct. As such, TTF considers that is not necessary for an ACCC representative to attend each Roundtable meeting because the measures already provide sufficient protection against anti-competitive conduct. Nevertheless, TTF would welcome ongoing engagement with the ACCC in respect of its efforts to address modern slavery risks in the telecommunications industry.

Duration of the authorisation period and scope of the authorisation

In TTF's view, the a one-year authorisation period suggested by ACCAN would be counterproductive, particularly where ACCAN itself acknowledges that it will likely take much longer than five years to achieve TTF's aim of eliminating modern slavery practices from telecommunications industry operations and supply chains. As explained in the Application, the process of identifying and combating modern slavery practices is complex and is likely to require continuing efforts over a number of years. TTF has sought a five-year period of authorisation because this to be the minimum period over which the effectiveness of the Proposed Conduct can realistically be assessed in any meaningful way.

The goals of TTF and its members could not be achieved without the Application being granted because of the risk that modern slavery may be present in the complex and extensive supply chains of Australian telecommunications industry supply chains is serious and significant. Further, the authorisation of the Proposed Conduct is appropriate in light of the fact that it will only be entered into as a last resort, as a means of trying to achieve meaningful change when other steps may have been ineffective.

TTF agrees with ACCAN that it is vital for telecommunications providers to continue engaging in due diligence about their supply chains and making individual efforts to reduce modern slavery within their particular "their sphere of influence". The Proposed Conduct is not intended to be supplant those continuing efforts by all telecommunications providers (whether TTF members or not). Rather, the Proposed Conduct has the potential to raise supply chain standards through the Australian telecommunications industry and to set a positive example for other providers, including smaller providers that are not currently obliged to report under the *Modern Slavery Act*.

Finally, with respect to ACCAN's concerns about Annexure D, TTF notes that it no longer claims confidentiality over that document, and accordingly, the document was published on 20 July 2021.

TTF extends its thanks to ACCAN for its feedback on the Application, and the ACCC for the opportunity to respond to ACCAN's feedback.

Yours Sincerely



Warren Sainsbury
General Manager
Telco Together Foundation