



James Jackson
President

Ref: 22185OC

17 June 2022

Mr Bruce Mikkelsen
General Manager (A/g)
Merger Investigations
The Australian Competition and Consumer Commission (ACCC)
GPO Box 3131
Canberra ACT 2601
By email: mergerauthorisations@acc.gov.au
Your ref: MA 100021

Dear Mr Mikkelsen

RE: ACCC Market Inquiry into the Telstra and TPG Telecom Limited application for merger authorisation for proposed spectrum sharing in regional Australia

NSW Farmers welcomes the opportunity to contribute to the ACCC Market Inquiry into the proposed Telstra and TPG merger authorisation.

NSW Farmers is Australia's largest state farming organisation, representing the diversity of interests of its members. Our focus extends from issues affecting particular crops and animals, through to broader issues including the environment, biosecurity, water, economics, trade and rural and regional affairs.

NSW Farmers understands that there are three interrelated agreements regarding the Telstra / TPG (MOCN) being: *a Service Arrangement*, *a Spectrum Authorisation Agreement*, and *a Mobile Site Transition Agreement*.

In general, NSW Farmers supports the principles that underpin the proposed Telstra and TPG application. Potential for increased competition and accompanying innovation, expanded access to underutilised spectrum, and greater efficient use of infrastructure should enhance service delivery and mobile connectivity.

However, NSW Farmers notes that the proposed Multi-Operator Core Network (MCON) agreement may not universally positively impact mobile users (voice and data) in the outer or rural region, leaving Telstra as the only provider covering 0.7 per cent of mobile customers. Unfortunately, this is where the majority of primary producers are located. We do note however, that access to this additional spectrum has the potential to deliver improved access to customers on the outer boundaries of The Regional Coverage Zone, subject to any line-of-sight constraints that may currently be experienced.

NSW Farmers' Association

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Access to consistent, high quality and reliable communications through voice and data is a high priority for the farm sector. Due to multiple factors, including distance, topography, and thin markets, certainty of access to consistent high quality mobile connectivity (voice and data) is challenging for many regional and remote users.

A survey by NSW Farmers in 2021 showed that over 78 per cent of respondents are unsatisfied or very unsatisfied with their mobile network coverage and 66 per cent have experienced a slight to significant decline in mobile network coverage.

Many of these customers in remote areas can be more dependent on data intensive services, particularly for health care and education. By enabling Telstra to pool its existing spectrum with TPG under this agreement, NSW Farmers understands that this will result in reduced congestion and potentially higher quality services in the areas beyond the MOCN.

The proposed agreement involves access to TPG's underutilized spectrum by Telstra and the sharing of Telstra's network infrastructure in specific regional and peri-urban areas (The Regional Coverage Zone) with TPG. TPG will have access to Telstra's infrastructure to offer expanded 4G and 5G services in The Regional Coverage Zone, adding potential competition to the current dominance of Telstra and Optus in the provision of mobile services in this zone. In relation to spectrum, it is understood that access by Telstra will enable expanded coverage and potentially increase the quality-of-service access.

While there are benefits associated with this proposed agreement within The Regional Coverage Zone, NSW Farmers seeks clarification that the proposed network sharing agreement between Telstra and TPG will not reduce infrastructure-based competition. NSW Farmers understands that there is the physical infrastructure (towers) and there are arrangements in place for hardware to be hosted on these towers through commercial agreements.

NSW Farmers supports full utilization of regional telecommunications infrastructure particularly, where feasible, that which is delivered under the publicly funded Mobile Black Spot program. There is potentially a question of certainty of ongoing prioritisation of infrastructure development under the MOCN.

NSW Farmers understands that TPG has a relatively small infrastructure footprint within The Regional Coverage Zone and that of this, 169 will be transferred to Telstra and that the balance will potentially be decommissioned. While it may be that there is an overlap in existing coverage, it will be important that all effort to fully utilise any existing infrastructure is prioritised.

NSW Farmers also notes that by sharing the Telstra radio communications network, the MOCN provides TPG with a virtual network across the whole of MOCN Coverage Area. The agreement, as NSW Farmers understands it will be that the relationship between Telstra and TPG in The Regional Coverage Zone will be to provide access through a carriage service arrangement – therefore retaining three separate and independent networks.

While the proposed agreement could lead to short-term benefits through the increase in service-based competition, in the long-term it could stifle competition between networks and associated product differentiation, innovation, and timely investment in network infrastructure. The initial term of the agreement of 10 years and potential total term of 20 years further raises the risks of long-term impacts on market growth through competition.

If the proposed MOCN does not result in an increase in regional users, there is a real potential that TPG will have less incentive to invest in infrastructure to grow its market share from its current low level, and Telstra may also have less incentive to invest in infrastructure to defend its market share. This will harm both the population in The Regional Coverage Zone and the urban population who are travelling through these areas.

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In its decision the ACCC should also consider the demand-side of the market. If the current or future level of demand in the Regional Coverage Zone is deemed insufficient for greater infrastructure investment, then the increase in service-based competition may outweigh the impacts of limiting infrastructure-based competition. The increase in demand due to migration to the Regional Control Zone and the substitution from standard internet services to mobile services such as 4G and 5G, should be factored into this analysis.

While out of scope for the ACCC Market Inquiry, if this agreement is authorised to proceed, NSW Farmers seeks a commitment from Telstra to reinvest a considerable part of the \$1.6 to \$1.8 billion of revenue from the deal in network infrastructure across The Regional Coverage Zone. This will compensate for any loss of infrastructure-based competition, while still capturing the benefits from service-based competition.

Access to spectrum, however, is a barrier to entry into wireless telecommunications markets that is more difficult to overcome than network infrastructure. Spectrum in regional areas is often underutilised, and lack of access to spectrum can lead to disincentives to invest in regional areas. The proposed agreement is an appropriate way to allow providers to enhance their spectrum position outside the standard auction system and provides greater incentive to invest in more fixed wireless services in regional areas. The ACMA has noted that spectrum sharing is a "potential means of enhancing wireless broadband services to regional communities".

NSW Farmers notes that the remote zone covering 1-2 per cent of the Australian population, and a significant proportion of NSW Farmers' members, will not be impacted by the proposed agreement and continue to be plagued by poor coverage.

This zone has the properties of a natural monopoly due to the high fixed costs of network infrastructure on the supply-side and low population density on the demand-side, resulting in high per-customer costs. Telstra is the only operator in this zone, which is an efficient outcome, as it is less costly to have one firm supplying the assets rather than duplicating infrastructure. The results of the NSW Farmers survey, however, points to the importance of maintaining and expanding this infrastructure to prevent loss of service quality in this zone over time.

Improved regulation and continued investment through programs such as the Mobile Black Spot program are required to maintain and expand service in the remote zone. The ACCC should explore access regulations to infrastructure in this zone to encourage competition and avoid the direct subsidisation of Telstra infrastructure. An additional network sharing agreement should be considered in this zone as it would not impact the current absence of network-based competition.

Should the ACCC wish to discuss any aspect of the above, you are invited to contact Kathy Rankin, Policy Director on [REDACTED] or by email at [REDACTED]

Yours sincerely

[REDACTED]

President

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