

The logo for Optus, consisting of the word "OPTUS" in a bold, teal, sans-serif font.

Submission in response to  
ACCC Discussion Report

**Public inquiry on the  
access determinations  
for the voice  
interconnection services**

Public Version

September 2025

## EXECUTIVE SUMMARY

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Optus welcomes the opportunity to provide comments in response to the Australian Competition and Consumer Commission's (ACCC's) draft report on the access determinations for the voice interconnection services, and specifically, the cost modelling approach proposed by Analysys Mason.

Optus submits that the proposed approach should be grounded in the legislative framework set out in Part XIC of the Competition and Consumer Act (CCA) and suitably informed by the judicial guidance provided by the Federal Court and the Australian Competition Tribunal. The telecommunications sector has a rich and well-established history of regulatory cost modelling and legal precedent, which offers a robust foundation for the ACCC's decision-making.

While economic theory recognises a spectrum of efficient pricing approaches – from short-run incremental cost to fully allocated cost – this range alone does not determine the specific interconnection rate that best promotes the long-term interests of end users (LTIE). We encourage the ACCC to give further consideration and analysis to ensure the long-term interests of users are best served and an optimal rate is identified.

We note that the consultant's materials presented by Analysys Mason do not appear to explore alternative input ranges or modelling assumptions, nor do they present multiple output scenarios. Specifically, Analysys Mason's approach to the hypothetical efficient operator (HEO) and associated key inputs, like market share, appear to differ from the approach adopted by the Australian Competition Tribunal. Optus submits that the ACCC should provide further information on how the approach proposed by Analysys Mason is consistent with Part XIC. By way of example, our analysis found that adjusting the geotype-specific market shares to values that better reflect the shares realistically achievable by a HEO resulted in an MTAS rate of 1.27 cpm – 40% higher than the rate proposed in the draft decision.

In light of this, Optus is unable to support the proposed approach outlined in the draft report. To support a more informed and transparent consultation, Optus recommends that the ACCC publish a range of input values and corresponding outputs that it considers lie within a reasonable range. At a minimum, Optus suggests an adjustment in market shares to better reflect market realities. This would ensure modelling supports values that promote the long-term interests of end users.

## HYPOTHETICAL EFFICIENT OPERATOR

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The ACCC is encouraged to ensure that the definition of the HEO aligns with established legal precedent. The HEO is typically understood as a notional operator – distinct from the incumbent – that embodies efficient operations in a competitive market. This abstraction allows regulators and tribunals to move beyond legacy cost structures and focus on what a well-run new entrant could **reasonably** achieve.

The Analysys Mason model adopts assumptions and inputs that assume a level of efficiency and scale that is only achievable (and has only been achieved) by the dominant incumbent network. This interpretation misrepresents the concept of the HEO. The HEO is not intended to reflect the scale and scope of an incumbent, but rather a benchmark operator that operates efficiently using modern technology and practices and which incurs costs reflective of efficient service provision. Importantly, the HEO must reference the actual process in which market operators compete and establish themselves.

This principle has been affirmed in multiple telecommunications decisions, including:

*“In seeking to emulate the outcomes realisable in a competitive market, some regard must be had to the actual process (the dynamics) by which operators compete and establish themselves in markets. It is not obvious that objectives of economic efficiency lead to basing prices on the costs that an efficient new entrant could achieve after some indefinite period. Similarly, the terms of s 152AH direct the assessment of reasonableness towards some aspects of market outcomes that go beyond over-simplified assumptions that could only be appropriate were perfect competition a realistic outcome.”<sup>1</sup>*

Consistent with this, the ACCC has previously stated:

*“The appropriate benchmark of an efficient operator should reflect the costs of a new entrant using best-in-use technology, unconstrained by legacy network decisions, and **operating at a scale and scope achievable in a competitive market.**”<sup>2</sup>*

This reinforces the principle that efficient pricing should be based on replicable efficiencies – not only advantages unique to incumbents. The ACCC has acknowledged the need to avoid embedding incumbent-specific benefits into the HEO model. Accordingly:

- (a) **The HEO should reflect what a new entrant could reasonably achieve**, not what the incumbent has achieved through historical investment or scale.
- (b) **Efficiencies must be replicable in a competitive market.** If an efficiency arises solely from incumbent-specific advantages – such as historical market dominance – it should be excluded from the HEO model.
- (c) **The Tribunal supports the use of contestable market benchmarks.** The HEO should represent a credible competitor, not a firm benefiting from entrenched market power.

### Telstra’s Enduring Competitive Advantage

Optus recommends that the ACCC adopt an approach consistent with its own observations in the 2022 Telstra-TPG merger review and the legal requirement to ensure that the HEO reflects the way an efficient operator would behave in the actual market.

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<sup>1</sup> Application by Vodafone Network Pty Ltd & Vodafone Australia Limited [2007] ACompT 1 at [73].

<sup>2</sup> ACCC, *Final MTAS Pricing Principles Determination, March 2009*

The ACCC has made many observations on the nature of competition in the mobile market, and specifically the dominance of Telstra nationally and in regional areas.<sup>3</sup> For example, the ACCC has noted:

- (a) Telstra's investment in regional areas has historically been driven by regulatory and policy requirements as a former statutory monopoly and de facto (formerly de jure) provider of last resort in regional areas;<sup>4</sup>
- (b) Telstra's network has been built and expanded over a significant period of time, and includes structural advantages conferred from its legacy as a former statutory monopoly and period of government ownership;<sup>5</sup>
- (c) Telstra has also been the greatest beneficiary of government co-funding under the Mobile Black Spots Program. While this extension of Telstra's network under the Mobile Black Spots Program has included significant investment from Telstra, the design of the Mobile Black Spots Program confers advantages to Telstra when tendering for co-funding;<sup>6</sup>
- (d) First-mover advantages in the Australian mobiles sector have created lasting structural impacts. Additions to market share during the roll-out and the early operation of new network technology have tended to be retained by the first-mover throughout the lifecycle of that technology generation. The ACCC has observed changes in market share driven by the early adoption of 4G and 5G, with the benefits largely accruing to Telstra;<sup>7</sup>

The ACCC observes in the draft report that Telstra maintains a dominant position in regional and remote areas due to its extensive infrastructure, coverage, and historical investment. This enduring advantage has not been materially eroded by competitors, and Telstra continues to be the primary provider in these areas.<sup>8</sup>

The approach proposed to be taken in this consultation on voice interconnection services appears to be inconsistent with the view previously taken by the ACCC in other substantive regulatory processes, such as the aforementioned Telstra/TPG merger review. Optus submits the ACCC should ensure the draft report and the draft cost model adopt views of the market, the nature of competition, and the manner in which existing (and hypothetical new) operators would compete that is consistent with statements made by the ACCC and the Federal Court in recent reviews of the Telstra-TPG and Optus-TPG network sharing proposals.

### **Market Share Assumptions in the Analysys Mason Cost Model**

The Analysys Mason Final Model Specification Paper assumes that the HEO achieves a significant market share in regional and remote areas. This assumption is inconsistent with the reality of Telstra's dominance and may lead to an underestimation of costs in the cost model.

Analysys Mason state that one of the main parameters that define the unit cost is the assumed market share. It is imperative that the shares assumed promote the LTIE and are consistent

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<sup>3</sup> ACCC, Reasons for Determination Application for merger authorisation lodged by Telstra and TPG in respect of the proposed Multi-Operator Core Network commercial arrangements and spectrum sharing, Authorisation number: MA1000021

<sup>4</sup> Ibid., p.42

<sup>5</sup> Ibid. p.42

<sup>6</sup> Ibid., p.42

<sup>7</sup> Ibid., p.43

<sup>8</sup> ACCC, Draft Report – Public Inquiry on the access determinations for the voice interconnection services August 2025 (**Draft Report**), p.25

with the HEO approach adopted throughout the model. Optus submits that the approach proposed in the draft model may not be consistent with the correct approach to the HEO.

The model utilises a geotype-based market share approach, primarily driven by the number of operators present in the market. That is:

- (e) Major Cities - Very High Density: 33.3%
- (f) Major Cities - High density: 33.3%
- (g) Major Cities - Medium density: 33.3%
- (h) Major Cities - Low Density: 33.4%
- (i) Regional (Inner) - Higher density: 33.4%
- (j) Regional (Inner) - Lower density: 34.3%
- (k) Regional (Outer) - Higher density: 33.4%
- (l) Regional (Outer) - Lower density: 36.7%
- (m) Remote - Higher density: 34.1%
- (n) Remote - Lower density: 42.2%
- (o) Very Remote - Higher density: 50%
- (p) Very Remote - Lower density: 45.3%

This results in the model using a blended assumed number of operators of **2.53**, and thus an overall market share of  **$1/2.53 \approx 39.5\%$** . To put this into context, the model assumes a HEO would achieve a weighted average national market share **greater** than all non-incumbent operators have ever achieved in a three network Australian mobile market. Optus observes that the highest market share obtained in a three-player national market was prior to the national Vodafone network issues at end December 2010, where Telstra held a national share of 40%, Optus had 33% and Vodafone held 28%.

These market share assumptions are inconsistent with the HEO approach. It is clear that the model takes an average operator approach, which is in divergence from accepted legal guidance on efficient pricing in Australia and inconsistent with the ACCC's claims of the use of the HEO principle. This does not reflect any realistic possible outcome for a HEO, nor does it accurately account for market advantages of the incumbent or historic inefficiencies in the market. Baking in the efficiencies of Telstra – efficiencies which are not achievable by others in the market – is not consistent with the existing legal guidance or economic theory.

Optus notes the 'top-down validation' noted in the draft decision – which observes that the model estimates 8,237 mobile sites, less than Telstra (11,701) and Optus (9,201).<sup>9</sup> The ACCC conclude that this comparison supports the view that the model is producing reasonable outputs. Optus respectfully disagrees. It is notable that the model predicts fewer sites than Optus yet assumes a higher market share (39.5%) than Optus has ever achieved in the market. The ACCC and the Courts have recognised the central role coverage and network performance has on market share in previous decisions, yet the draft report does not seem concerned that the model predicts a higher market share with fewer sites that has ever been achieved in the

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<sup>9</sup> Draft Report, Table 10, page 50

real market. Optus submits that the review taken in Table 10 demonstrates that the model is not reasonable and needs to be recalibrated.

Assuming high market share for the HEO in regional and remote areas risks distorting the cost model outcomes. It may result in artificially low-cost estimates for mobile terminating access services (MTAS), which could lead to pricing determinations that do not promote the LTIE. This undermines the principle of cost-reflective pricing and may not fully account for the real-world challenges faced by non-Telstra operators in expanding network coverage.

Optus submits that on the basis of available historic and current market data, it would be prudent for the regulator to reconsider the market share assumptions proposed in the draft modelling specifications – and, as a result, to not adopt the approach in the draft cost model.

### **Suggested approach**

Optus notes the sensitivity analysis in the draft decision estimates the impact of a 25% market share – an increase in the MTAS rate of 25%. This shows the importance of setting a market share that accurately depicts the way in which a HEO would drive share in the real market. Adjusting the geotype specific market shares for the HEO to 25% for major cities, 15% for regional geotypes (both inner and outer), 10% for remote, and 5% for very remote<sup>10</sup> results in MTAS rates of 1.27cpm.<sup>11</sup> This calculation illustrates the central role market share assumptions play in the model, and the subsequent proposed MTAS rate by the ACCC.

To ensure the cost model reflects market realities, the following recommendations are proposed:

- (a) Adjust market share assumptions for the HEO to reflect Telstra’s enduring dominance in regional and account for efficiencies that are replicable in a competitive market.
- (b) Conduct sensitivity testing focused on geographic market share variations.
- (c) Consider alternative modelling scenarios that account for infrastructure and coverage disparities.

Optus thanks the ACCC for the opportunity to contribute to this important issue.

**[ENDS]**

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<sup>10</sup> Altering values in selected.market.share.by.geotype

<sup>11</sup> Average across 2025 to 2030.