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OPTUS

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Dear Richard

**Mobile Domestic Inter-carrier Roaming Services**

Optus welcomes the opportunity to respond to the Australian Competition and Consumer Commission's (ACCC's) draft decision on whether or not to declare the mobile domestic inter-carrier roaming service.

Optus agrees with the ACCC's conclusion that domestic roaming should not be declared on the basis that there is no evidence that declaration would promote competition. Indeed, it appears to Optus that this wholesale market is generally operating efficiently and effectively, with no need for regulatory intervention.

However, Optus has concerns with the ACCC's proposal to issue a record-keeping rule (RKR) to monitor inter-carrier roaming arrangements.

Monitoring of the type proposed would impose regulatory costs, both for the organisations required to devote resources to complying with the RKRs, and for the ACCC who would need to collect and analyse the data. The imposition of regulatory compliance costs should be reserved for circumstances in which a market failure exists. The ACCC, however, has not provided any evidence that this is the case. To the contrary, the ACCC's draft report says:

*"Market inquiries indicate that those carriers acquiring roaming services were satisfied with negotiations and did not consider prospective suppliers to be acting anti-competitively. The ability to play one prospective supplier off against another appears to have played an important role in this regard, particularly once it becomes clear that at least one carrier is willing to supply roaming services." (page 28)*

The ACCC has also not provided any information on its proposed approach to assessing the reasonableness of the information it receives under the RKR. Optus does not believe that it would be an effective use of resources to investigate a market in which access seekers have not faced difficulties in arriving at acceptable outcomes. Indeed, the ACCC's draft decision states that:

*'... there appear to be few concerns, if any, from those seeking GSM roaming services. Both Vodafone and Hutchison appear to be satisfied with the agreements they have negotiated to roam on to the networks of other carriers.'* (page 27)


Optus recommends that the ACCC abandon its proposal to monitor the domestic roaming market, leaving it instead to access seekers to monitor the reasonableness of the arrangements. Access seekers will face strong incentives to inform the ACCC of any difficulties faced in negotiating commercial outcomes, particularly in light of the ACCC's statement that:

*"it will reconsider declaration should it receive information that supply is threatened or that the terms and conditions of supply are unreasonable".* (page 37)

To illustrate, Optus believes that roaming access could potentially become problematic if roaming between GSM and CDMA networks became feasible. In such circumstances, Optus would contact the ACCC providing evidence of the access issues.

Should you have any questions in relation to any elements of this letter, please do not hesitate to contact Sara Whyte on (02) 9342 5125.

Yours sincerely



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