

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

Submission in response to
ACCC Draft Decision

**Domestic Mobile
Roaming Declaration
Inquiry**

Public Version

June 2017

CONTENTS

Section 1. Executive Summary	3
Section 2. Unlocking mobile investment	5
Current policy setting have encouraged investment	5
Draft Decision to not declare will unlock further regional investment	7
Section 3. Reforms to improve mobile coverage	9
Investment plans transparency and network quality information	9
Effectiveness of infrastructure sharing	11
Spectrum policy	15
Section 4. Further comments	17
The domestic mobile roaming service	17
Relevant markets	18
State of competition in relevant markets	19
Declaration will not promote competition in the relevant markets	22
Promoting efficient use of and investment in infrastructure	24

Section 1. EXECUTIVE SUMMARY

The ACCC's Draft Decision has found that the Australian mobile market is competitive, and Australian consumers benefit from high quality network and pay prices below the OCED average. The ACCC found that declaring domestic roaming would:

- Not increase competition for consumers, with differing coverage as much an outcome of competition as it is a competitive differentiator;
- Risk increased prices for regional consumers, and could risk mobile operators adopting regional pricing; and
- Distort investment incentives for regional areas, potentially leading to reductions in investment.

This inquiry has also demonstrated that regional Australians are passionate about their mobile communication needs. They expect to receive the same leading edge technologies, quality of service and pricing as people in the cities. Whilst the mobile sector is delivering these outcomes for many millions of regional Australians, for some it is clear that service performance is not at the level they expect or require.

Importantly, the Draft Decision observed that declaring domestic roaming would not address these concerns.

Optus supports these observations and conclusions in the Draft Decision. Further, Optus is committed to addressing concerns about regional coverage and quality through its continued investment into regional mobile infrastructure and services.

“
Optus plans to invest \$1.5B and turn on 200+ regional sites if the draft decision is confirmed
”

Since 2009, Optus has invested more than \$6 Billion on mobile infrastructure and \$1.5 Billion on spectrum licences. Consumers are the direct beneficiaries of this investment as we expand our mobile footprint, and invest in the latest technologies. With our significant investment and careful planning Optus' mobile network footprint is closer to Telstra than at any point in time and many kilometres ahead of Vodafone's network. Today we cover 98.5% of the Australian population through 3G and have increased our 4G coverage to over 96% of the population.

In the last three years alone, Optus has invested close to \$3 Billion in its mobile infrastructure as part of a three year investment plan aimed at improving the depth, reach and quality of our mobile network and making it video ready. This investment is being made not only in the capital cities but also in regional towns. To date, this investment has translated into more than 510 new greenfield sites; including 123 new sites and 1,498 sites upgraded with 4G in regional areas.

Optus' investment has been made on the back of policy settings that have encouraged infrastructure based investment and competition. Optus' annual capital investment is on par, or larger, than many of Australia's largest listed companies.

The ACCC has decided to not declare a roaming service on the basis that this will provide the strongest incentives for Mobile Network Operators (MNOs) to continue to invest. Optus strongly endorses this decision. If the ACCC had declared mobile roaming on the previous occasions it has examined this issue then it is highly unlikely that Optus' mobile network footprint (and related backhaul infrastructure) would be as extensive as it is today.

More importantly, if the ACCC confirms its decision to not declare domestic roaming in its final ruling then this will provide Optus with the certainty it needs to invest a further \$1.5 Billion in 2017/18 to deepen network capacity and coverage, and continue delivering high quality services, choice and competition. This investment will particularly benefit regional Australia where more than 200 regional sites are expected to go live within the next twelve months. This investment will deliver improved coverage, quality of service and choice to an additional 1 Million regional consumers [CiC]. Further, regional Australia is not just a marketing idea; it is a major economic market with one third of the Australian mobile market residing outside Australia’s metropolitan centres. This represents an important opportunity which underpins our investment strategy.

Whilst Optus is confident that continued investment in regional mobile services and infrastructure will continue to deliver superior outcomes to regional consumers compared to mandated roaming, we do believe there is a place for targeted regulation to play a role. A number of the policy measures outlined in chapter 9 of the Draft Decision are worthy of further consideration. We note, for example, colocation is used extensively to support mobile investment, contrary to the claims of some MNOs. Almost 75% of the towers Optus uses are owned by a third party, and 65% of Optus-owned towers support equipment of another MNO.

“ Regional Australia is not just marketing ... it is a major economic market ”

However, improvements could be made to the current colocation arrangements to facilitate increased investment in the more remote and commercially marginal areas of Australia. Consistent with the approach adopted in the Australian Government’s Mobile Black Spot Programme, MNOs investing in “Greenfield” sites in certain specified regional areas could be encouraged to seek expressions of interests for co-investment as a means to facilitate the provision of competitive services. Optus believes the colocation arrangements adopted in the Mobile Black Spot Programme are operating well and Optus is progressing multiple site sharing arrangements under rounds 1 and 2 of the programme.

Section 2. UNLOCKING MOBILE INVESTMENT

- 2.1 Optus supports the Draft Decision to not declare domestic mobile roaming. This decision will unlock further regional mobile investment.
- 2.2 As a result of the Draft Decision, Optus has announced a further \$1.5 Billion investment in infrastructure over the next financial year. This investment is a result of the certainty that is provided under the current policy settings in the mobile market. Any changes to these settings risks future investment.
- 2.3 Optus fully supports the observations in the Draft Decision that declaration of domestic mobile roaming would place at risk a significant amount of regional investment; and would lead to material detriment to regional consumers.

Current policy setting have encouraged investment

- 2.4 The mobile sector has been the stand-out success in the communications markets with three established national networks; a fourth network operator poised to enter the market; and a vibrant wholesale market with more than 60 MVNOs operating across Australia each targeting different market segments.
- 2.5 The recently released Akamai State of the Internet report again shows Australia is leading the Asia-Pacific region in terms of network quality, speed and consumer take-up of smartphone and LTE technologies.¹ Such innovation is made possible through the current market settings.
- 2.6 The sector has seen a high level of infrastructure competition which has fostered technological innovation such as:
 - (a) Optus' world-leading investment in 4.5G networks making 1Gbps wireless speeds possible;²
 - (b) Satellite small cells, an inexpensive alternative to traditional mobile towers, which are delivering mobile coverage in previously unserved remote areas such as Wilpena Pound and Maralinga in South Australia; along the Sturt Highway between Katherine and Uluru in the Northern Territory; and along 2000km of Highway in Western Australia.
- 2.7 The current policy settings have resulted in Optus investing more than \$6 Billion on mobile infrastructure and \$1.5 Billion on spectrum since 2009. Consumers are the direct beneficiaries of this investment as we expand our mobile footprint, and invest in the latest technologies.
- 2.8 Significant dollars and careful network planning over the last decade has put Optus closer to Telstra, and many kilometres ahead of Vodafone in terms of our footprint. Today we cover 98.5% of the Australian population through 3G and have increased our 4G coverage to over 96% of the population.
- 2.9 **[CiC]**

¹ Communications Day, Akamai: Australia leads APAC on average mobile speeds but still languishing on fixed, 2 June 2017

² <https://media.optus.com.au/media-releases/2017/optus-launches-4-5g-network-across-macquarie-park/>

- 2.10 **[CiC]**
- 2.11 Optus' build activity in regional Australia is almost twice that of VHA and we expect this gap to increase as much of our regional investment will be realised towards the latter end of the three year roll-out plan. Furthermore, there appears to be no evidence that VHA has used its commercial roaming agreement with Optus to lift its regional investment.
- 2.12 Not only has Optus invested more than \$6 Billion on its mobile network since 2009, but we have opened up competition through our extensive partnerships with the MVNO sector. As we expand our footprint, MVNOs extend their reach. Optus currently has **[CiC]** partners in our MVNO portfolio, who offer 3G and 4G services nationally across our entire footprint.
- 2.13 We welcome the observation that Optus' regional investment is driven by competition and is efficient. We repeat again that the existing policy settings have encouraged Optus' current push into regional areas and our focus on acquiring more regional subscribers.
- 2.14 In addition to mobile investment, Optus has also invested in satellite solutions for remote areas. In areas outside Optus' mobile coverage footprint, Optus offers a sat sleeve solution, which transforms a smartphone into a satellite device. This utilises existing satellite investments to deliver 100 per cent coverage across Australia.³
- 2.15 The SatSleeve was launched in 2013 and pioneered 'bring-your-own-device' within the satellite industry. In particular, it provides a solution for customers so that they can stay in touch even when outside of mobile range. Users can access voice, SMS and data services with the sleeve, providing there is a direct line of sight to the satellite. It works by allowing calls to a mobile number from a user's contacts; if users are out of mobile range, the call will be diverted to the satellite phone free of charge, with the diversion set-up a simple, one-off process.
- 2.16 This again highlights that the current policy settings have encouraged Optus' current push into regional areas, using all its available technologies.
- 2.17 Optus strongly believes that mandating mobile roaming will do nothing to improve the quality of coverage in those regional and remote communities that are currently serviced by a single mobile operator. Optus agrees with the conclusion in the Draft Decision that declaration of domestic mobile roaming would risk Optus' future investment plans for regional areas across all its technologies.
- 2.18 The success of the current policy settings to promote investment in the mobile market can be placed in context by comparing Optus' recent capital expenditure to some of the largest companies in Australia. Over the last two financial years, Optus has invested \$1.2B and \$1.5B respectively, from revenue around \$8.5B.⁴ This is on par, or in excess of some of the largest Australian companies. We are among the top capital investors in Australia – despite having less revenue than some.
- 2.19 For example,

³ For example, see: Optus, "Optus delivers 100% mobile coverage across Australia with the SatSleeve," Media Release, 5 November 2015

⁴ Optus financial years ending March.

- (a) Woolworths, with a market capitalisation of \$34.7B, invested \$1.5B and \$1.4B over the last two financial years, from revenue of around \$60B.⁵
 - (b) Wesfarmers, with a market capitalisation of \$48.8B, invested \$1.5B in 2016 and \$1.3B in 2015, from revenue of around \$66B.⁶
 - (c) CSL, a biopharmaceutical company and the sixth largest company on the ASX with a market capitalisation of \$60.3B, invested \$0.8B in 2016 and \$0.5B in 2015, from revenue of around \$8B.⁷
 - (d) AGL, the Australian integrated energy company (including generation), the largest listed utilities company, with a market capitalisation of \$17.8B invested \$0.6B in 2016 and \$0.8B in 2015 from revenue of \$11B in both 2016 and 2015.^{8, 9}
- 2.20 It is due to the successful policy environment we operate in that enables us to commit such large sums of money in long term investment, especially in regional Australia.
- 2.21 Optus agrees that declaration would distort our efficient investment incentives and stifle the development of differentiated services, thus undermining dynamic efficiency. Should roaming be declared Optus would almost certainly reduce its investment in regional areas.

Draft Decision to not declare will unlock further regional investment

- 2.22 Optus strongly supports the conclusion in the Draft Decision that absent declaration Optus is likely to continue to invest to improve the quality of its network to compete with Telstra in many regional areas. And that Optus' investment incentives will also mean it will likely elicit competitive responses from Telstra to maintain its network quality in those areas.¹⁰
- 2.23 Indeed, Optus can confirm that the Draft Decision is correct that we will continue to invest in regional Australia absent declaration. The decision to maintain the current policy settings has had an immediate impact. As a result of the Draft Decision, Optus has announced a further \$1.5 Billion investment in mobile infrastructure over the next financial year.
- 2.24 The Draft Decision has given us greater certainty to go forward with an investment strategy that will improve coverage for a further 1 Million Australians in regional Australia **[CIC]** Over the next 12 months, Optus will be investing in mobile coverage in many parts of regional Australia including, but not limited to:
- (a) Gunnedah and Wagga Wagga (NSW);
 - (b) The La Trobe Valley and Benalla (Victoria);
 - (c) Burnett and Gympie (QLD);
 - (d) Mallee (SA);

⁵ Woolworths Group, Company Results Presentation, Full Year 2016, 25 August

⁶ Wesfarmers, 2016, 2016 Full year results briefing presentation, 24 August

⁷ CSL Limited, 2016, Financial Report 2015-16, 'Total capital expenditure excluding business acquisition', p.87

⁸ AGL, Annual Report 2015, 26 August

⁹ Market capitalisation data obtained <http://www.asx200list.com/>

¹⁰ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, pp.71-3

(e) Davenport and Burney (Tas); and

(f) Gascoyne (WA).

2.25 This investment will lead to real and meaningful improvements in network reach and quality – and will bring real competition to over 4 Million Australians in regional Australia.

Optus' FY18 investment plans

2.26 As stated above, as a result of the certainty created by the Draft Decision, Optus has been able to acquire a commitment from its shareholders to invest an additional \$1.5 Billion for infrastructure during FY18. Optus plans to go live with over 200 regional sites over the next twelve months.

2.27 [CiC].

2.28 [CiC].

2.29 [CiC]

2.30 It is also relevant to this inquiry to highlight the investments that are planned for SA3 areas which have population densities well below what VHA and its advisors consider to be uneconomic to invest.¹¹ [CiC]

2.31 The announced investment plans for FY18, which followed the Draft Decision to maintain the existing investment rules, demonstrates that the ACCC was correct to conclude that absent declaration Optus is likely to continue to invest to improve the quality of its network to compete with Telstra in many regional areas.

¹¹ The Ritzmann paper stated that SA3 areas with a population density of less than 3.2 represented areas that were uneconomic to invest and that this result was robust against all reasonable sensitivities. Ritzmann, p.10.

Section 3. REFORMS TO IMPROVE MOBILE COVERAGE

- 3.1 Optus supports the conclusion in the Draft Decision that declaring domestic mobile roaming will not lead to improved mobile coverage; rather it risks long term underinvestment in regional mobile networks.
- 3.2 To that end, the ACCC is seeking further submissions on the need for reforms – if any – to the existing suite of regulatory remedies available that directly promote regional mobile network investments. These include:
- (a) Improving transparency around MNOs' investment plans and commitments in regional Australia;
 - (b) Providing consumers with information about network quality;
 - (c) Improving the effectiveness of infrastructure sharing; and
 - (d) Ensuring that the spectrum regulatory framework promotes competition.
- 3.3 While Optus supports measures to better promote regional investment, we note that any changes required are likely to be incremental. Some of the proposed solutions are already in place and operate as business-as-usual (BAU); the challenge is to make the solutions more effective. Much information is already publicly available; but the challenge is to make it more accessible.

Investment plans transparency and network quality information

- 3.4 The ACCC considers there is a lack of transparency around the reporting of network coverage and future network rollout or upgrade plans. The Draft Decision observes that:
- (a) More transparency of information regarding network extensions or improvements would promote competition by enabling consumers to seek out and use the information to make decisions about alternative services available in an area.
 - (b) More transparency about the quality of services from network operators and their customers' actual experiences may lead to more accurate coverage maps and service quality.
- 3.5 The Draft Decision also requests further observations whether reporting of such information would improve competition.¹²
- 3.6 Optus welcomes any measures that increase transparency over network coverage and quality to consumers, so that they can make fully informed decisions when choosing their mobile provider. But it is not clear that regulated reporting would benefit regional Australians. There are several reasons for this.
- 3.7 First, Optus wishes to highlight the level of local engagement we undertake when investing in new or upgraded sites in regional Australia. Over the last three months

¹² ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, pp.77-8

alone, Optus has had around forty pieces of regional media coverage about our network improvements, 21 print and 19 on radio. Some examples include:

- (a) Welcome reception for Optus tower, *Armidale Express*, 10 March 2017, p.9
- (b) Optus expanding reach across regional Northern Territory, *Northern Territory News*, 24 January 2017, p.9
- (c) Mobile phone coverage welcomed for William creek, *Monitor Roxby Downs*, 16 March 2017, p.3
- (d) Optus on the move, *Sunraysia Daily*, 22 March 2017, p.1
- (e) Fix for mobile dropouts, *Gold Coast Bulletin*, 23 March 2017, p.6
- (f) Optus steps up Tweed presence, *Tweed Valley Weekly*, 23 March 2017, p.6
- (g) Mobile network gets \$2m upgrade, *Daily Liberal Dubbo*, 13 April 2017, p.2
- (h) Optus headed for the west, *Western Times*, 27 April 2017, p.1
- (i) Optus says hello to outback, *Balonne Beacon*, 27 April 2017, p.5

- 3.8 Optus regional investment announcements were broadcast on regional radio and television stations such as Southern Cross Tasmania, Triple M Sunraysia, ABC Mildura, ABC Gold Coast, Prime7 Wagga Wagga, ABC North West Queensland, 2NM Muswellbrook.
- 3.9 In addition, the Optus media team answered 48 media enquiries about local investment, including location of towers and community consultation processes. In January 2017, there were 17 pieces of media coverage related to the roll out of satellite small cells in regional Australia.
- 3.10 Optus submits that we, and other MNOs, engage extensively in regional areas to ensure communities are aware of our investment plans and improvements in coverage. It is not clear that regulated reporting would benefit regional consumers.
- 3.11 Second, it is necessary to highlight that there are many sources of information currently in the market that assess and compare network coverage and quality. Indeed, given the nature of network competition, there is an active third party market for the provision of network information. One of the most well-known (at least in the industry) is the annual CommsDay P3 Survey.¹³
- 3.12 Optus welcomes further consideration of how existing reports around network coverage and quality could be made more accessible to consumers. Optus notes that consumer organisation like Choice¹⁴ and ACCAN¹⁵ refer to the P3 results in their consumer publications. The results are published in all the major newspapers.¹⁶ The results are

¹³ <https://issuu.com/grahame/docs/benchmark>

¹⁴ <https://www.choice.com.au/electronics-and-technology/phones/mobile-phones/articles/telstra-optus-vodafone-mobile-network-ranking-141015>

¹⁵ <https://accan.org.au/hot-issues/1117-commsday-mobile-benchmark-15>

¹⁶ <http://www.theaustralian.com.au/business/companies/major-telcos-boost-customer-service-but-telstra-leads-pack/news-story/ba8ac279f84c56d4b1d7d84c9a575dc2>; <http://www.smh.com.au/business/telstra-optus-vodafone-have-improved-mobile-networks-as-these-numbers-show-20151013-gk8jj6.html>

also published on LinkedIn.¹⁷ And of course, MNOs regularly refer to results of the P3 test.

- 3.13 It is not clear whether there is any need for regulatory intervention with regards to mobile network testing given the extensive public testing already in the market; and the extensive advertising and reporting that relies on the testing.
- 3.14 The ACCC raise an issue around the practicality of existing public coverage maps. The Draft Decision also refers to the Optus 'My Optus' app which collects real-time data about the coverage of its network through an application on its customers' mobile phones. Such information can often be more accurate and reliable than engineering estimates of coverage based on technical data. Industry can work together to assess and address any issues around coverage maps.¹⁸
- 3.15 Optus supports the use of accurate and timely coverage maps. The provision of coverage maps, which is inherently based on engineering assumptions, may not always reflect actual real world experience. Factors such as vegetation, buildings and sources of interference cannot be reflected in these indicative coverage maps. Optus' use of its 'My Optus' app to collect real-world network experiences helps us to ensure the Optus network delivers superior consumer outcomes by highlighting gaps in coverage that can be addressed.
- 3.16 In addition, Optus provides public access to 'Mapblaster' software to enables customers to check current, and upcoming, coverage in specific areas. Mapblaster provides three and six month updates on Optus' 4G rollout plans in particular regions. Mapblaster can be accessed by customers and also can be used in store during sales and service discussions.¹⁹
- 3.17 Optus would support further work with the other MNOs to investigate how we, as an industry, can improve the usefulness of coverage maps.

Effectiveness of infrastructure sharing

- 3.18 The ACCC observed that there are opportunities to make improvements in MNOs' ability to expand their coverage and services to regional consumers through the use of multiple government initiatives and/or regulatory mechanisms.
- 3.19 The Draft Decision highlights that MNOs can request access to another MNO's facilities (the facilities owner), including the mobile towers. The ACCC observe that tower sharing, under the facilities access regime or otherwise, has the potential to allow an MNO to extend their mobile network at a lower cost than would be incurred if they were to acquire sites and build their own towers.²⁰
- 3.20 Optus acknowledges the view of the ACCC that the existing facilities access regime may not significantly reduce the costs of an MNO seeking to extend its network into parts of regional Australia.²¹ We submit that this statement is quite broad, and while it may apply to some aspects of the site sharing arrangements, it does not apply to all aspects.
- 3.21 To that end, it is instructive to discuss the different types of access and sharing of assets separately. This section looks at:

¹⁷ <https://www.linkedin.com/pulse/p3-commsday-mobile-benchmark-australia-2015-sebastian-vogels>

¹⁸ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.78

¹⁹ <http://www.optus.com.au/shop/mobile/network/coverage>

²⁰ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.79

²¹ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.80

- (a) Colocation arrangements on existing sites;
- (b) Co-build arrangements for greenfield sites;
- (c) Use of NBN fixed wireless infrastructure; and
- (d) Mobile Black Spots Programme.

Colocation on existing sites

- 3.22 The existing facilities access regime focuses on access to existing mobile sites. This relates to colocation of one MNO's equipment on another MNO's (or third party) site. First, Optus notes that such colocation activity is business-as-usual (BAU) for mobile site deployment. It will be shown below that the vast majority of mobile equipment are located on another party's passive assets. Second, the regime for colocation on existing sites does not assist MNOs to expand into otherwise non-covered areas.
- 3.23 Optus can confirm that it extensively utilises colocation both as a tenant and as an asset owner. Optus operates equipment on around [CiC] sites, of which Optus owns only [CiC] towers. The other sites are a mix of third party owned towers and non-tower sites. Of the [CiC] towers owned by Optus, other MNOs are co-located on 65% of those sites.
- 3.24 Over the last two years, our figures show that applications to colocate on Optus towers have totalled 111 from Telstra, 87 from NBN Co and just 16 for VHA. [CiC] Optus submits that this data demonstrates the colocation regime is working for industry as a whole.
- 3.25 Colocation on existing sites can offer benefits, but it often depends on the practical considerations for each individual site. For example, if the site has adequate space and is designed to hold the extra weight of another MNO's equipment, colocation is likely to be beneficial. However, if the site is not sufficiently engineered and does not have adequate height, colocation may not be cheaper than building a stand-alone site. Further, the location of the incoming MNO on the site (i.e. height of their antennas) has a significant impact on the propagation characteristics of the site. The RF considerations can also make stand-alone sites more attractive.
- 3.26 Recent costing exercises provided to the MBSP2 programme show that the cost to Optus of a new greenfield sites is around [CiC] This compares to [CiC] if colocated on another existing site. This shows that colocation on existing sites may not lead to the cost savings some envisage.
- 3.27 Notwithstanding these caveats, colocation on existing sites has proven to be extremely useful when deploying Optus' regional 700MHz LTE network. [CiC]
- 3.28 In addition to colocation projects between MNOs, colocation frequently occurs between third party owners and MNOs. For example;
- (a) Optus has over [CiC] sites with Broadcast Australia. This has enabled, for example, recent expansion of more than 20 sites in Western Queensland, including sites under MBSP funding.²²
 - (b) There are also a number of non-tower options to colocate on in regional areas. This includes, structures owned by Graincorp and Viterra, which MNOs, including Optus and VHA colocate on.

²² <https://media.optus.com.au/media-releases/2017/10m-mobile-infrastructure-upgrades-underway-in-western-qlld/>

- 3.29 Optus does not believe that there is need to change the existing colocation rules. Industry negotiation works well, within the restrictions of locating on a tower/structure that was designed for other purposes. Importantly, where an MNO wishes to colocate on another party's site, Optus has not seen any evidence that there are procedural, behavioural or structural impediments to doing so. It may be that an MNO does not see the commercial value in colocating, or is of the view that the costs are too high.

Encouraging co-build for regional greenfield sites

- 3.30 While the colocation procedures on existing sites work well – within the context of locating on a site that is not necessarily engineered for that purpose – there is an opportunity to enhance the procedures prior to building new greenfield sites. Optus sees potential benefits from greater use of co-build for regional greenfield sites. It is the co-build process where cost to deploy sites can be halved or reduced to one third.
- 3.31 However, for a co-build to realise the potential savings there must be a robust process in place. A process which is not in place now. At the moment there are numerous informal processes to discuss co-build options among MNOs, starting with the Mobile Carriers Forum.
- 3.32 The carriers once a year (through the mobile carriers forum) share their plans to encourage sharing. This process in theory enables MNOs to plan co-builds where required. However, it is rarely used for such purposes. In practice, MNOs typically often lodge separate DAs, and have different contractors supplying information and designs. Optus believes that for co-build to work more effectively there needs to be a more clear and certain end-to-end process that reduces duplication and provides certainty to both the lead and collocating parties.
- 3.33 That is not to say that co-build cannot occur between the MNOs. Examples show that it can occur;
- (a) Victorian Rail project is operating on a co-build basis across the three MNOs. This includes headframe sharing across MNOs, sub-leasing of towers, full sharing of designs, consideration of fibre builds at the same time and aligning rigging crews. It is this coordination that leads to significant cost savings.
 - (b) There is also a long standing Memorandum of Understanding (MOU) for installation of In-building coverage (IBC) solutions which works reasonably well. Elements of this process could be extended to macro sites.
- 3.34 Optus would welcome further inquiries on improvements in the process that remove obstacles to greater use of co-build in regional areas. Improvements could include:
- (a) Formal process every quarter declaring areas where MNOs wish to invest in new sites. MNOs would then be able to notify any intent to colocate, which would then trigger a formal process. This is similar to the Declaration Period under the MBSP.
 - (b) Reference offer designs for sites that accommodate one, two and three MNOs. This will ensure that lead MNOs does not change its design in order to game the system or to impose costs on collocating party.
 - (c) Process where the lead carrier has responsibility to issue Development Application that covers itself and all collocating aspects required. Further, the lead MNO should provide space on tower under sub-leasing arrangements

- (d) Joint build needs to ensure one crew at site to install and rig the site. If there is a need for multiple crews (i.e. each MNO uses their own building company) then the cost savings will not materialise.

Victorian Rail Tender Model

- 3.35 The Victorian rail tender has resulted in the three MNOs working together to build new site and upgrade sites for the benefits of customers across all three carriers. It is an \$18M programme that will ensure that 95% of all rail lines will have coverage at the end of the programme.
- 3.36 **[CiC]**
- 3.37 There are several elements of the co-build arrangements which Optus believes could be extended more widely to increase the benefits of co-build:
 - (a) Design requirements shared up-front and included in all parts of lead carrier's site acquisition works (e.g., community consultation, development approvals, etc).
 - (b) Lead carrier undertakes sub-lease for colocating parties.
 - (c) Power runs shared equally between colocating parties.
 - (d) Colocating parties contribute to incremental capital cost of tower to support requirements.

Use of NBN Co infrastructure

- 3.38 The Draft Decision considers there may be scope to leverage the NBN fixed wireless infrastructure to expand coverage at a reduced cost. We also observe comments made by some parties to this Inquiry that there should be more use of colocation on NBN Co sites.
- 3.39 Optus submits that industry is making extensive use of the NBN wireless infrastructure. Both NBN Co and MNOs can already colocate on each other's infrastructure, saving material costs for both parties. For example, **[CiC]** Our experience with NBN Co is that they are more than willing to accommodate colocation.
- 3.40 There is no evidence to support a view that there are impediments to colocation on NBN Co infrastructure. It is Optus' clear experience that where a MNO or NBN Co wish to colocate on existing infrastructure both parties have been able to do so.

Mobile Black Spots Programme

- 3.41 The Draft Decision observes that the implementation of the MBSP means that there has been insufficient weight given to competition in allocating funding. The ACCC also note there is no mandatory requirement to provide roaming at new mobile sites despite the significant public funds used to deliver the program.
- 3.42 Optus agrees that the MBSP should place weight on competition, although we disagree that mandatory roaming is an appropriate consideration. Optus highlights that if roaming is not an appropriate remedy under this Inquiry, it is not clear how roaming could be the appropriate remedy for MBSP sites.
- 3.43 Optus supports greater weight being placed on competition aspects of the MBSP. This means, that more weight should be placed on sites that promote competitive coverage

and sites which offer colocation and co-build options. It is these aspects of the MBSP that will lead to actual improvements in competitive rural coverage.

- 3.44 Further, the MBSP2 has adopted a system to incentivise MNOs to engage in co-build to maximise the number of sites deployed. This includes setting out minimum design specifications that enable colocation to occur. The MBSP process involves the following:
- (a) Requirement for lead MNO to offer MNOs the opportunity to participate in the pre-design of sites.
 - (b) A minimum two month period for other MNOs to nominate the sites that they wish to participate in the pre-design process. If no nomination is received, there is no obligation to facilitate colocation.
 - (c) For nominated sites, the following requirements;
 - (i) Each site is built to accommodate at least one collocating MNO
 - (ii) Explicit minimum colocation specifications for each site;
 - (iii) Sufficient AC power and hut space for at least one collocating MNO;
 - (iv) Lead MNO can only charge for the incremental costs for specifications that are additional to the minimum listed above.
- 3.45 Optus recommends that a co-build process that is based on the process above would likely lead to beneficial outcomes.

Spectrum policy

- 3.46 Optus has been, and continues to be, a strong supporter of the ACCC having a more formal role in advising the ACMA and the Minister on spectrum-related competition issues. For example, in May 2016 Optus provided the following comments in response to the Legislative Proposals Consultation Paper on *Radiocommunications Bill 2016*:
- (a) Optus strongly recommends that the new *Radiocommunications Bill* contain an obligation for the ACMA to seek the advice of the ACCC when determining competition limits as part of a spectrum allocation process.
 - (b) The ACMA has no role or responsibility with regards to competition issues in the telecommunications sector. As such, the ACMA does not have the necessary expertise to adequately judge the complexities of how proposed allocation processes will impact competition and should be required to devolve this assessment to the ACCC
 - (c) Further, the new *Radiocommunications Bill* should also mandate that the ACCC adopt a public inquiry process similar to that under Part XIC of the *Telecommunications Act 1997*. The ACCC should be required to consult on proposed competition limits; and to publish its recommendations.
 - (d) Finally, the new *Radiocommunications Bill* should require the ACMA to adopt the recommendation of the ACCC.
- 3.47 A more formal and transparent process that enables the ACCC to provide expert competition advice would ensure that valuable spectrum assets do not become barriers to competition in mobile markets.

Section 4. FURTHER COMMENTS

- 4.1 This section responds to specific observations and conclusions included in the Draft Decision. This section looks at:
- (a) The domestic mobile roaming service;
 - (b) Definition of relevant economic markets;
 - (c) Assessment of competition in those markets;
 - (d) Declaration will not promote competition; and
 - (e) Efficient investment in and use of infrastructure.

The domestic mobile roaming service

- 4.2 The ACCC included a suitable description of domestic mobile roaming in several documents during the period of this inquiry, including:
- (a) In the Discussion Paper;²³
 - (b) In the guide for consumers;²⁴ and
 - (c) An actual service description in the Draft Decision.²⁵
- 4.3 The type of service that forms the subject of this inquiry and about which consultation has occurred was described in appropriately simple terms in the guide for consumers, issued in October 2016. It stated:

In Australia, a domestic roaming service is where a mobile network operator uses (or roams onto) the mobile network of another mobile network operator (the host mobile network) so that the first operator can provide mobile services to consumers outside of its own network coverage area.²⁶

- 4.4 Similarly, the Discussion Paper described a domestic mobile roaming service as:

A service to carry data, SMS and voice calls using all components of the mobile network between the visited networks core, and the roaming end-users' mobile device (including transmission, all parts of a base station and spectrum).²⁷

- 4.5 This description was confirmed in the Draft Decision, issued in May 2017:

Mobile roaming services allow mobile subscribers of one network to use their mobile phones for calls, text messages and data services on another network in Australia when outside the coverage area of the network to which they subscribe.

²³ ACCC, 2016, Domestic mobile roaming inquiry, Discussion Paper, October, p. 5 and p.39

²⁴ ACCC, 2016, Domestic mobile roaming inquiry – A guide for consumers, Fact Sheet, October

²⁵ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.11

²⁶ ACCC, 2016, Domestic mobile roaming inquiry – A guide for consumers, Fact Sheet, October

²⁷ ACCC, 2016, Domestic mobile roaming inquiry, Discussion Paper, October, p. 5

A mobile roaming service essentially allows a mobile network operator (MNO) to provide mobile services outside of its network footprint.²⁸

- 4.6 This approach is consistent with the long-running position of the ACCC to adopt a technology neutral service description where possible. Broad description is appropriate given that mobile services are continually evolving with the deployment of new mobile technologies and devices. Mobile services are no longer restricted to a single mobile technology (i.e. 3G or 4G) and the network reach for each MNO may differ from one geographic area to the next.
- 4.7 Optus does not believe that there is any confusion over the scope of the potential declared service for the purposes of the ACCC undertaking its public inquiry. The broad service descriptions stated initially in the Discussion Paper, the guide for consumers and confirmed in the Draft Decision are entirely appropriate for the purposes of the ACCC's inquiry and Optus is comfortable that it has had appropriate opportunity to make submissions on that basis.
- 4.8 Optus also notes that the Discussion Paper acknowledged that: *"If the ACCC were to declare a domestic mobile roaming service it would be necessary to consider a service description and the scope of that service description as well as regulated pricing issues in making an access determination."*²⁹ Given the ACCC's preliminary decision was not to mandate domestic roaming as described, there is no immediate need to embark on any further exercise setting out the precise detail of a technical service description for the purposes of assessing whether declaration is in the LTIE. Optus would expect that if the ACCC decides that there is merit in declaration of domestic mobile roaming, then as foreshadowed it would engage in a more detailed analysis and consultation about the precise terms of a technical service description before making a final decision.

Relevant markets

- 4.9 The Draft Decision finds that there is a national mobile services market with geographic variations within that market. In reaching this view, it considers that there is a separate market for wholesale roaming services; however, it does not consider that a mobile roaming service is an essential input into retail mobile services.

Wholesale roaming services market

- 4.10 The ACCC considers there is a separate market for wholesale roaming services, and finds that there are no effective substitutes for wholesale roaming services. However, Optus notes there are clear substitutes for wholesale roaming services; namely, that MNOs have the option to extend its own network into an area in order to provide a mobile service. For example, MNOs can achieve mobile coverage – either through self-investment, co-investment, colocation, or through commercial roaming arrangements
- 4.11 Absent declaration, the ACCC has considered options such as infrastructure sharing and/or regulated transmission prices would continue to play an important element in rolling out mobile networks in Australia, and as such, would dampen the need for a mandated wholesale mobile roaming service. In effect, the availability of such options would likely facilitate and support investment incentives to extend network reach into an area. However, the ACCC finds that these options in themselves are not effective substitutes for wholesale roaming services in Telstra-only coverage areas.

²⁸ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.11

²⁹ ACCC, 2016, Domestic mobile roaming inquiry, Discussion Paper, October, p.37

- 4.12 Optus does not agree that these options cannot be effective. In particular, Optus considers infrastructure sharing and colocation arrangements can increase the efficiency of infrastructure rollout, albeit with some geographic variation. It is clear that the options to build infrastructure (jointly or alone) remains a substitute to MNOs should there be no roaming agreements. Even with geographic variances in the network coverage and availability, this is not sufficient to warrant the disaggregation of wholesale roaming services into discrete geographic areas. There is no one-size-fits-all roaming solution. Different MNOs may wish to have different roaming agreements. Such diversity of product and demand is an indication of a functioning and dynamic wholesale market. Optus, therefore, does not agree that there is a specific market for roaming in Telstra-only areas.

There are no separate sub-markets for wholesale roaming services

- 4.13 Optus does not consider there are a separate wholesale markets for the supply of mobile services to MVNOs, and the downstream market for the supply of machine-to-machine (M2M) and mobile services related to the Internet of Things (IoT).
- 4.14 This declaration inquiry relates to the supply of wholesale roaming services to and between MNOs. To this extent, MVNO, M2M and IoT end-users are all part of the same downstream retail market for mobile services.

National mobile services market is a relevant market

- 4.15 Optus agrees that the geographic scope of the retail mobile services market is national. This is an important aspect of competition – all downstream services supplied to end-users are geographically agnostic, with metro users able to use their same service in regional areas and vice versa (subject to technical limitations, such as device capability, spectrum availability and network coverage). Retail prices similarly reflect this market, with no geographic differentiation in mobile plan prices.
- 4.16 In addition, Optus also agrees with the Draft Decision that MNOs compete for market share on a national basis. Whilst MNOs may also compete for market share on a geographically disaggregated basis, this is largely an influencer and result of the MNO's network investment decisions. Optus' recent increase in regional investments is example of an MNO making efficient investment decisions to expand its network coverage into regional areas in order to compete more aggressively with the regional incumbent. A decision to allow mandated roaming would undermine this investment, and likely undermine the case to undertake further investments to expand the network.

State of competition in relevant markets

- 4.17 The Draft Decision finds that the state of competition in both the wholesale roaming and the retail mobile services markets is reasonably effective, but that there are signs that it may be less effective in some geographic areas. For example, in the more regional and remote areas, and particularly in the Telstra-only area.

State of competition in the wholesale market for mobile roaming services

- 4.18 The ACCC considers the wholesale mobile roaming market is effectively competitive for the vast majority of areas in Australia. Optus agrees.
- 4.19 Notably, in areas served by two or more MNOs, the ACCC considers competition is generally effective. Current commercial roaming agreements already exist between

MNOs, with the potential scope for future arrangements to be introduced.³⁰ In the more regional and remote areas, particularly in the Telstra-only area, the ACCC considers competition in the wholesale roaming market is less effective. The ACCC has also observed that because MNOs compete in a number of dimensions, including network coverage, *“It is therefore rational, and an outcome of these competitive forces, that an MNO would not offer a wholesale product that would affect a source of its ability to compete.”*³¹

- 4.20 Optus agrees with the ACCC’s views that the provision of wholesale roaming is effectively competitive for over 98% of the population. Optus also agrees with the observation that while the wholesale roaming market may not be effective in some parts of Australia, it considers that competition in the retail market is more integral to assessing the effect of declaration. Moreover, Optus notes that the level of competition in these remote areas is not having detrimental impacts on end-users. End-users in these areas, even if they only have one choice of network, receive the same price as if they were located in the CBD of the largest cities of Australia and facing full competition.

State of competition in the national retail mobile services market

- 4.21 The Draft Decision comments on a number of market dimensions, but considers that overall the national retail market shows signs of reasonably effective competition.
- 4.22 In particular, Optus agrees with the ACCC’s views that *“MNOs compete across a broad range of factors, including price, plan inclusions, network quality and coverage, and premium content. Importantly, MNOs compete to invest to upgrade or extent networks in a timely way.”*³²
- 4.23 Optus reiterates that the current state of competition in the national mobile services market is strong, and remains one of the most successful areas of competition in the communications sector.

Market share

- 4.24 There is strong infrastructure-based competition, with all three MNOs currently offering services to at least 96% of the population. As a result, the mobile market continues to be reasonably dynamic and the size of market shares change over time. The mobile retail market share for MVNOs has also steadily increased over time, further highlighting the competitiveness of the mobile retail market.
- 4.25 While Telstra continues to hold a leading position in its share of the national retail market, the market share figure also varies across Australia, with competition in metropolitan areas generally more intense when compared to regional areas.
- 4.26 The ACCC also makes the following observations:
- (a) Market shares for mobile services in metropolitan areas are consistently more evenly distributed than the national market. In these areas, Telstra’s market share is also significantly smaller than its national market share.
 - (b) In contrast, regional market shares generally show Telstra being in a far stronger position than its competitors. However, there is also growing evidence

³⁰ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.22

³¹ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.22

³² ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, pp.35-6

that competition in the larger regional centres is growing through increased network investments by the other MNOs.

- 4.27 Optus reiterates that as our current regional network investments continue to be rolled out, we expect to be able to more effectively compete with Telstra and subsequently grow our regional market share. Optus refers to the information in Section 2 of this submission which shows the additional regional consumers that will have **[CiC]** Optus network performance and coverage by the end of FY18, should the Draft Decision be confirmed.

Switching behaviour

- 4.28 Optus agrees there are low barriers to entry in terms of a consumer's ability to switch between mobile providers. All market dimensions, including price, coverage and availability, play a role in influencing a consumer's preference of one mobile provider over another.

Price rivalry

- 4.29 Price rivalry is one of the primary factors over which mobile providers compete for customers. This occurs at a national level given there is no difference in the prices offered to customers based on where they may reside. This means that there will be strong and effective competition in the national retail market.
- 4.30 Optus agrees that even in regional areas where there is limited infrastructure-based competition, regional consumers can obtain the same attractive price-quality plans as their metro counterparts.
- 4.31 In addition to price declines over time, increased competition has also led to data inclusions become the main differentiating factor in mobile retail plans. There are also other features of mobile plans that MNOs use to differentiate their services. For example, some of these other features may include access to exclusive content and access to unmetered access to streaming services.
- 4.32 Optus also agrees that different retail prices between competitors is a sign of competition rather than otherwise.

Non-price rivalry

- 4.33 Non-price rivalry through competition on service quality and network coverage is also an important factor over which mobile providers compete for customers. These are important factors when it comes to network differentiation, and influenced increased competition in recent years, particularly to the benefit of customers in regional areas.
- 4.34 However, Optus reiterates that while population coverage is a point of differentiation, it is not necessarily the most important consideration for customers when choosing a mobile provider.
- 4.35 The ACCC also makes the following observations with respect to Telstra's leading market share position in regional areas. These observations however are not static and will continue to evolve and change as MNOs continue to invest in their network service quality and geographic coverage.
- (a) Changes in the national market share do not appear to be strongly linked to their levels of network coverage. Optus agrees that other non-price factors play a stronger role for most end-users.

- (b) Telstra's share of the mobile broadband market appears to suggest that consumer's perception of network quality is also driving consumer choice. Optus notes that the difference in mobile broadband market share could also be a result of different reporting basis by the different MNOs. [CiC]
- (c) In areas where there is geographic coverage from all three operators, particularly in regional areas, Telstra still maintains a market share advantage.
- (d) Physical presence of retail stores in an area contributes to an MNO's market share within that area. It is likely that market share in different areas is proportional to the level of retail presence.

4.36 Optus, therefore, agrees that having extensive geographic coverage is only one factor for a service provider to compete in the national mobile service market. It also does not appear to be the determinative factor for a high proportion of metro consumers when choosing a mobile provider.

Mobile competition in regional Australia

- 4.37 In addition to the accepted view that the mobile market is a national market, Optus agrees that *"mobile markets that demonstrate improvements in network coverage and technology, combined with significant declines in the effective price of calls, messages and data services over time are likely to be reasonably effectively competitive and unlikely to lead to consumer detriment."*³³
- 4.38 There were many submissions on the importance of network coverage and quality, particularly to regional customers.
- 4.39 Optus reiterates that while regional end-users may have less network choice, they continue to enjoy competitive pricing. Importantly, a high market share in regional areas for Telstra does not mean that end-users in these areas are subject to monopolistic pricing. Even if it were correct to say that there are barriers to entry in regional areas, end-users in regional areas receive the same commercial benefits as metropolitan end-users. This is because of national pricing, and strong competition in metropolitan areas.
- 4.40 Optus does not agree that mobile competition in regional areas is less effective than the national market overall due to a potential lack in price rivalry across some retail plan price categories. Rather, the market is operating effectively today with competitive national pricing, reflecting the competitive intensity present in metropolitan areas. Regional end-users continue to benefit from strong competition in the metro areas.
- 4.41 Optus strongly submits that mandating domestic roaming would not promote competition in the relevant markets – and it would do very little, if anything, for regional end-users. Indeed, it is most likely to result in increased pricing for regional customers, and would have little if any impact on metropolitan customers.

Declaration will not promote competition in the relevant markets

- 4.42 Optus supports the conclusion in the Draft Decision that declaration will not promote the LTIE for several reasons:
- (a) Competition in the national mobile services market is reasonably effective;
 - (b) Competition gains in the retail markets would be modest at best but there is the risk that some consumers could be left worse off;

³³ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.36

- (c) Any-to-any connectivity is already being achieved; and
 - (d) Economically efficient investment in infrastructure is unlikely to be promoted more generally.
- 4.43 In particular, Optus agrees that there is insufficient evidence that declaration will improve the current state of competition to a significant extent. Roaming will not expand the overall mobile footprint available today; it merely opens up existing coverage to other providers and it is more likely that it would remove incentives for other MNOs to invest in the declared areas.
- 4.44 The impact on investment is discussed above in Section 2.
- 4.45 Optus agrees that mandating roaming will not mean that MNOs will be better able to supply wholesale roaming services than they currently do and this is expected to remain unchanged even with declaration. Therefore the competitive impact of declaration in this market is not likely to be significant.
- 4.46 The ACCC highlights that should declaration ensure each MNO could achieve equivalent coverage, it would promote competition in regional Australia; and importantly, that this would not necessarily lead to better outcomes for regional end-users.
- 4.47 Optus strongly agrees that there is limited evidence that improving the ability for MNOs to provide mobile services in regional areas, through declaration, will significantly improve the national market for mobile services. Instead, as highlighted in the Draft Decision, *“there are risks that declaration will lead to less competition and worse outcomes for some consumers in the national market for mobile services.”*³⁴
- 4.48 Analysys Mason similarly concluded that *“Even though customers do care about coverage, we believe they care about breadth and depth of coverage across the entire country. They also care about many other factors, giving all operators an opportunity to differentiate their services to target different customer types.”*³⁵
- 4.49 Mandated roaming may lead to adverse impacts on retail pricing, such as the ability to maintain nationally consistent pricing or the potential introduction of geographically de-averaged pricing. We note that:
- (a) Competition in regional areas after declaration would not occur at the current price levels, with acquirers of national roaming having to increase prices to reflect the increased cost of acquiring roaming – which if set at the efficient build-buy decision would not be materially different from existing levels charged by Telstra.
 - (b) Competition in metro areas would also likely suffer as those end-users who do not value coverage – which must be a large number if Telstra’s market share is materially different between metro and regional areas – would be forced to pay for national coverage they would otherwise not purchase.
- 4.50 Optus agrees that mandating domestic roaming is unlikely to facilitate and reduce barriers to entry for new entrants. The ACCC is also correct to consider that declaration of a roaming service in regional areas would not facilitate entry for a fourth MNO; and that roaming in the areas where there are three separate mobile networks would occur under commercial arrangements.

³⁴ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.54

³⁵ Analysys Mason, 2017, A critique of the expert report prepared by Dr Derek Ritzmann for Vodafone Hutchison Australia, A report for Optus, 31 January, p.14

- 4.51 Therefore, while there are different market shares across metropolitan and regional sub-markets, it is not clear that mandated roaming will promote competition when compared against the current state of the market without mandated roaming. More importantly, mandating roaming would not promote the long term interests of end-users.

Promoting efficient use of and investment in infrastructure

- 4.52 The Draft Decision considers declaration may result in some efficiency gains in allowing access seekers to use excess capacity available on the access provider's existing infrastructure in areas where declaration is likely to apply. However, the ACCC also finds there is insufficient evidence to support the view that declaration would significantly promote competition and lead to more efficient prices in the downstream retail markets.
- 4.53 Optus supports the preliminary findings that declaration is unlikely to materially promote efficient use of existing infrastructure. However, we wish to refute the observation that declaration would result in better use of the excess capacity in Telstra's regional sites.
- 4.54 In particular, the existing market already delivers allocative efficiency in rural areas and mandated roaming would only, at best, result in a transfer of customers from one provider to another. In other words, *"Roaming would not improve allocative efficiency, it would simply create churn away from Telstra's existing customers to access seekers."*³⁶
- 4.55 Optus also notes the comments in the Draft Decision that increased use of spare capacity may arise from metro travellers to regional areas, but we emphasise that any such effect (if at all present) would be immaterial and unmeasurable. It should, therefore, not be given weight in this consideration. Further, given the competitive metro market, any metro customers who wished to have remote coverage could either acquire services from MNOs with such coverage, or purchase alternative innovative solutions such as the Optus SatSleeve. In conclusion, there is no evidence to suggest there is a measurable cohort of metro end-users that would travel to remote areas and utilise existing spare capacity as a result of mandated national roaming.
- 4.56 Efficient investment in infrastructure is achieved through continued network investment in regional areas by MNOs. In addition, investment promotes investment. While the incentives may differ, the existing market is delivering positive signals to encourage efficient investment by MNOs. As viewed by the ACCC: *"Optus' investments to compete with Telstra are also likely to elicit competitive response from Telstra to maintain its better coverage."*³⁷
- 4.57 Analysys Mason also considered that the concept of a "ladder of investment" would not be achieved if mandated roaming entrenches the current coverage differential between Telstra and the other network operators, or the mandated roaming prices are set at a low level.
- 4.58 Notably, it highlights that mandated roaming could result in a number of disincentives for MNOs, including *"removing the counterfactual incentive for other network operators to invest in additional remote coverage... [and] because remote networks are always deployed in high-cost, low-density areas where expected unit costs for self-supply will be higher than the national average or metropolitan average."*³⁸ This means that any build-buy decisions will inherently be skewed in any areas where mandated roaming will

³⁶ Analysys Mason, 2017, A critique of the expert report prepared by Dr Derek Ritzmann for Vodafone Hutchison Australia, A report for Optus, 31 January, p.15

³⁷ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.71

³⁸ Analysys Mason, 2017, A critique of the expert report prepared by Dr Derek Ritzmann for Vodafone Hutchison Australia, A report for Optus, 31 January, p.16

apply, and “*may reduce efficient investments which result in socially beneficial outcomes.*”³⁹

4.59 It follows that the impact on investment incentives for MNOs cannot be understated.

4.60 As summarised by the ACCC, absent declaration:

- (a) Telstra is unlikely to have strong incentives to continue to expand its coverage footprint since it is already significantly bigger than its closest competitor. But it is likely to continue to invest to improve its network within its existing coverage footprint, including the current Telstra-only areas.
- (b) Optus is likely to continue to invest to improve the quality of its network to compete with Telstra in many regional areas. While it is unlikely to match Telstra’s coverage footprint completely, its investment incentives will also mean it will likely elicit competitive responses from Telstra to maintain its network quality in those areas.
- (c) VHA is likely to continue to invest to improve its network and increase capacity within its existing coverage footprint.⁴⁰

4.61 There is no evidence that there is a market failure to deliver efficient outcomes in the national mobile services market. Rather, the likelihood of unintended consequences is much higher given that declaration may undermine the competitive dynamic that exists (and incremental improvements that result) due to network rivalry by competing MNOs.

4.62 Optus therefore supports the ACCC’s view that declaration would not promote the economically efficient investment in infrastructure.

³⁹ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.73

⁴⁰ ACCC, 2017, Domestic mobile roaming inquiry, Draft Decision, May, p.71