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Dear Interested Party

**Telstra Corporation Limited, Telstra Limited and NBN Co Limited application for authorisation AA1000607 – final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by Telstra Corporation Limited (**Telstra Corporation**), Telstra Limited and NBN Co Limited (**NBN Co**) (together, the **Applicants**) on 31 March 2022.

In June 2011, Telstra Corporation and NBN Co entered into a suite of long term agreements (the **Definitive Agreements**) which facilitate the rollout of the national broadband network (the NBN). The Definitive Agreements were amended in 2014 to reflect changes to the rollout of the NBN.

Conduct by Telstra Corporation, NBN Co and NBN Co's related entities in entering into, and giving effect to, the Definitive Agreements is authorised for the purposes of section 51(1) of the Competition and Consumer Act 2010 (Cth) (the **CCA**) by section 577BA of the Telecommunications Act 1997 (Cth) (the **Original Statutory Authorisation**).

The Original Statutory Authorisation does not extend to Telstra Corporation's related entities because at that time Telstra Corporation did not have any related entities that were required to carry out obligations under the Definitive Agreements.

The Telstra Group is undertaking a legal restructure of its organisation and the Applicants submit that in order for the Definitive Agreements to continue to operate as intended, they will require some amendments to ensure existing protections extend to the new Telstra entities. The proposed amendments are set out in a new agreement between the Applicants (the Amending Agreement). The Amending Agreement provides for:

- the extension of certain rights and obligations in the Definitive Agreements to Telstra Limited (to be renamed ServeCo), and
- the amendment and/or creation of certain rights and obligations in the Definitive Agreements to reflect the inclusion of the Telstra Limited business (to be renamed ServeCo) and related entities.

Authorisation allows the Applicants and their related entities to engage in conduct to give effect to the Amending Agreement which may otherwise breach provisions of Part IV of the CCA.

A copy of the ACCC's determination is attached, including a summary of its reasons. For the reasons set out in its determination, the ACCC has decided to grant authorisation until 30 June 2034. The ACCC's assessment is set out in Chapter 4 of its determination.

### **Application for review**

Pursuant to section 101 of the *Competition and Consumer Act 2010* (Cth), a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 6 October 2022. If no application to review is lodged by this date, the ACCC's determination will come into force on 7 October 2022.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Gemma Smith via [gemma.smith@accc.gov.au](mailto:gemma.smith@accc.gov.au)

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Hatfield', is positioned above the printed name.

David Hatfield  
Director  
Competition Exemptions