



# Determination

## Application for merger authorisation

lodged by

Telstra and TPG

in respect of

the proposed Multi-Operator Core Network

commercial arrangements and spectrum sharing

Merger authorisation number: MA1000021

21 December 2022

Commissioners: Keogh, Rickard, Brakey, Carver, Crone.

## Determination

### The application

- 1.1. On 23 May 2022 Telstra Corporation Limited (**Telstra**) and TPG Telecom Limited (**TPG**) (collectively, **the Applicants**) lodged an application MA1000021 with ACCC seeking authorisation under section 88(1) of the Act.
- 1.2. The Applicants have entered into 3 interrelated agreements to implement a Multi-Operator Core Network (**MOCN**) commercial arrangement: the MOCN Service Agreement, the Spectrum Authorisation Agreement, and the Mobile Site Transition Agreement (together, the **Proposed Transaction**).
- 1.3. The Applicants seek authorisation for the contractual authorisation of Telstra (pursuant to the Spectrum Authorisation Agreement) to operate radiocommunications devices under TPG's spectrum licences, which is deemed by section 68A of the *Radiocommunications Act 1992* (Cth) (the **Radiocommunications Act**) to be an acquisition for the purposes of section 50 of the Act.

### The authorisation test

- 1.4. Under section 90(7) of the Act, the ACCC must not make a determination granting authorisation under section 88(1) of the Act unless it is satisfied in all the circumstances that:
  - a) the conduct would not have the effect, or not be likely to have the effect, of substantially lessening competition, or
  - b) the conduct would result, or be likely to result, in a public benefit, and this public benefit would outweigh the public detriment that would result, or be likely to result, from the conduct.
- 1.5. The ACCC is not satisfied, in all the circumstances, that the Proposed Transaction would not be likely to substantially lessen competition, or would be likely to result in a benefit to the public that would outweigh the public detriment from the Proposed Transaction. Therefore, the ACCC must not make a determination granting authorisation to the Proposed Transaction under section 88(1) of the Act.
- 1.6. Accordingly, in accordance with section 90(1)(b) of the Act, the ACCC dismisses the application for merger authorisation MA1000021.
- 1.7. This determination is made on 21 December 2022. Any application to the Australian Competition for review of the determination must be made on or before 11 January 2023.
- 1.8. The ACCC will publish its reasons for determination separately, pending review for confidential information.