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31 May 2022

Dear interested party,

### **Telstra and TPG application for merger authorisation for proposed spectrum sharing in regional Australia – interested party consultation**

On 23 May 2022, the Australian Competition and Consumer Commission (**ACCC**) received an application for merger authorisation from Telstra Corporation Limited (**Telstra**) and TPG Telecom Limited (**TPG**).

Telstra and TPG (the **Applicants**) have entered into three interrelated agreements in respect of a Multi-Operator Core Network (**MOCN**) commercial arrangement: a MOCN Service Agreement, a Spectrum Authorisation Agreement, and a Mobile Site Transition Agreement (see **Attachment A** for further detail). The MOCN Service Agreement is for a period of 10 years with two five-year options for TPG to extend the term.

The Applicants seek merger authorisation for an aspect of these arrangements. Namely, the use by Telstra of spectrum held by TPG, which is deemed to be an acquisition for the purposes of section 50 of the *Competition and Customer Act 2010* (Cth) (the **Act**) (the **Spectrum Transaction**).

The ACCC's consideration of the application will focus on the likely effects on competition, as well as whether the likely public benefits from the Spectrum Transaction outweigh any likely public detriment. The ACCC is seeking submissions on the following issues:

- how mobile service providers currently compete, including whether they seek to differentiate on price, network coverage and quality, product and service offerings and inclusions, and whether the MOCN arrangement will impact this competition;
- the likely impact of the MOCN arrangement on prices, including mobile services, fixed bundles and data services;
- the likely impact of the MOCN arrangement on non-price aspects of competition, including product and service offerings, contracts, network coverage, bundling options, speed, customer service and service quality;
- how closely TPG and Telstra currently compete, or would be likely to compete in the future, absent the MOCN arrangement;

- the likelihood of other competitors expanding their network coverage and quality to constrain the services provided by Telstra and TPG under the MOCN arrangement;
- the extent and likelihood of public benefits and detriments, claimed by the applicants or otherwise, arising from the MOCN arrangement; and
- any other competition issues relevant to the ACCC's consideration of the proposed arrangement.

For further information, a copy of the application for merger authorisation is available on the ACCC's [Merger Authorisations Public Register](#). An overview of the arrangements is provided in an executive summary at pages 6 to 13 of the application. In addition, **Attachment A** to this letter provides information about the Applicants, the proposed arrangement and claimed public benefits.

### **Merger authorisation**

Merger parties may apply for merger authorisation from the ACCC. If granted, it gives them legal protection from section 50 of the Act to acquire the relevant shares or assets.

The ACCC can grant merger authorisation if it is satisfied that either:

- the proposed acquisition would not be likely to substantially lessen competition, or
- the likely public benefit from the proposed acquisition outweighs the likely public detriment.

The ACCC will make a determination by 17 October 2022. Further information on the merger authorisation process is available in the ACCC's [Merger authorisation guidelines](#).

### **Making a submission**

We request that you provide your submission by no later than **14 June 2022**. Under the Act the ACCC may, but need not, take into account submissions received after this date. If you wish to make a submission but cannot provide it by the specified date you should contact us to seek an extension.

You should email any submissions to [mergerauthorisations@acc.gov.au](mailto:mergerauthorisations@acc.gov.au) with the subject '[your company name]: MA1000021 – Telstra TPG Spectrum Transaction – submission'.

Alternatively, if you would like to provide comments orally, please contact Soo Sian Koh on 03 9290 1904 or Janet Li on 02 9102 4024 to organise a suitable time.

### **The public register and requesting confidentiality**

Authorisation is a public process. The ACCC must keep a public register of documents relating to the application for merger authorisation, including submissions made by interested parties. The ACCC's public register can be found at: [Merger authorisations register](#).

All submissions (including yours) **will be published** subject to confidentiality claims. You may request that your submission, or parts of it, be excluded from the public register for confidentiality reasons. For example, if your submission contains commercially sensitive information or if revealing that you have made a submission could cause you commercial harm. You must make your claim for confidentiality at the time of providing the submission to the ACCC and all claims must be substantiated.

Refer to the ACCC's [Guidelines for excluding information from the public register](#) for any requests for material to be excluded from the public register.

This matter is public and you may forward this letter to anybody who may be interested.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'BM', with a long horizontal flourish extending to the right.

Bruce Mikkelsen  
General Manager (A/g)  
Merger Investigations

## Attachment A

### Telstra

Telstra is an Australian telecommunications and technology company. Telstra supplies retail mobile services, retail fixed bundles and standalone data services and retail fixed standalone voice services. Telstra operates the largest mobile network in Australia, covering around 33% of the country's land mass and reaching around 99.5% of the population. Telstra also provides wholesale services, including wholesale mobile services to mobile virtual network operators (**MVNOs**).

### TPG

TPG is a full-service telecommunications company listed on the ASX. On 13 July 2020, Vodafone Hutchison Australia (**VHA**) and TPG merged. Several brands fall under TPG in Australia, which include Vodafone, TPG, iiNet, AAPT, Internode, Lebara and felix. TPG provides services to consumers, small and medium enterprises, government, large corporate enterprises and wholesale customers. TPG is the third placed mobile network in Australia and also operates and supplies fixed broadband services in Australia with extensive on-net infrastructure and next-generation networks. TPG offers nationwide National Broadband Network (**NBN**), ADSL2+, Fibre Optic and Ethernet broadband access, telephony services, SIM Only Mobile plans and various business networking solutions.

### The proposed MOCN arrangement

As stated above, the Applicants have entered into three agreements in respect of a Multi-Operator Core Network (**MOCN**) commercial arrangement. The agreements, which are further described below, primarily apply in certain regional and urban fringe areas (the **Regional Coverage Zone**), comprising approximately 17% of the Australian population coverage.

#### *MOCN Service Agreement*

- Pursuant to the MOCN Service Agreement, Telstra will share its Radio Access Network (**RAN**) with TPG and supply 4G and 5G services in the Regional Coverage Zone in exchange for access and usage fees. The agreement is for 10 years, with two options for TPG to extend the agreement by a further five years.
- TPG will gain access to the coverage provided by around 3,700 Telstra mobile sites in the Regional Coverage Zone, improving its depth of coverage in this area and increasing its coverage from around 96% to 98.8% of the population.

#### *Spectrum Authorisation Agreement*

- Pursuant to the Spectrum Authorisation Agreement, TPG will authorise use of certain spectrum (including in 700MHz, 850MHz, 2.1GHz and 3.6GHz bands) it owns to Telstra in the Regional Coverage Zone in exchange for authorisation fees.
- This spectrum will be pooled with Telstra's spectrum and made available to both Applicants in the Regional Coverage Zone, pursuant to the MOCN Service Agreement. Telstra will also be authorised to use certain spectrum beyond the Regional Coverage Zone.

#### *Mobile Site Transition Agreement*

- Pursuant to the Mobile Site Transition Agreement, TPG will grant Telstra access to up to 169 TPG mobile sites primarily inside the Regional Coverage Zone. TPG intends to decommission its remaining sites in the Regional Coverage Zone.
- Telstra will either pay TPG a fee under existing facilities access arrangements to access and deploy infrastructure on those sites, or assume TPG's payment

obligations under the transferred site licences.

### **Public benefits**

The Applicants submit that the proposed MOCN arrangement will deliver public benefits including:

- improved connectivity and service quality in regional and rural areas, which will deliver significant economic, social, health and education benefits for regional and rural communities;
- enhanced innovation, competition and expanded choice for mobile and fixed network customers in regional and rural areas;
- reduced network costs and more efficient utilisation of infrastructure in regional and rural areas;
- increased impact of government funding for infrastructure deployment in regional and rural areas; and
- environmental benefits from reduced need for physical infrastructure deployment and lower energy requirements.