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**From:** Haydn Flack [REDACTED]  
**Sent:** Thursday, 2 June 2022 12:53 PM  
**To:** Koh, Soo Sian <[soosian.koh@acc.gov.au](mailto:soosian.koh@acc.gov.au)>; Li, Janet <[Janet.Li@acc.gov.au](mailto:Janet.Li@acc.gov.au)>; Merger Authorisations <[MergerAuthorisations@acc.gov.au](mailto:MergerAuthorisations@acc.gov.au)>  
**Cc:** Evans, Linda [REDACTED]; Clark, Patrick [REDACTED]; Kirsty van den Bergh [REDACTED]; Jeffrey Chan [REDACTED]  
**Subject:** Optus: MA1000021 – Telstra TPG Spectrum Transaction [ME-ME.FID6738442]

Dear Janet and Soo Sian

We refer to the market inquiries letter dated 31 May 2022 regarding the authorisation application for the proposed Telstra / TPG spectrum sharing arrangement. MinterEllison and Herbert Smith Freehills are assisting Optus in relation to this matter.

Optus intends to provide a detailed response to the questions raised in the letter and also regarding the substance of the application. As you will appreciate, significant portions of the application have been redacted, including sections that Optus will need to understand in order to provide meaningful and complete submissions to assist the Commission's review. This will include aspects of the application that appear to directly concern Optus' business and its operations in the relevant markets.

Subject to guidance from you about the Commission's preferred path forward, we are proposing to write to the representatives of the applicants who are listed at par 1.1 of the application seeking an unredacted version of the application in respect of at least:

- Section 3 regarding the counterfactual with respect to TPG.
- Section 7 regarding the commercial framework.
- Section 9 regarding the competition analysis.
- Annexure O (expert report of Richard Feasey).
- Any other redacted material that concerns Optus, either directly or indirectly, including, for example, any statements concerning Optus' competitiveness with other MNOs.

Given the sensitivity of the information to the applicants, we have sought to confine our request to the information necessary for Optus to assist the Commission. However, we may need to request access to additional information, as the Commission's assessment progresses.

We understand that the applicants will want to ensure that there are appropriate confidentiality protections in place covering this material. Optus would be prepared to agree to a confidentiality regime which limits access to this material to external advisers to Optus, as well as named internal Optus personnel for the purpose of receiving instructions. That may include named in-house counsel and non-operational personnel. The named Optus personnel would be prepared to provide suitable written undertakings that would address the use, handling, protection and destruction of the relevant versions involved.

You will appreciate that Optus' ability to provide a detailed response will require a clearer understanding of key aspects of the application including the commercial framework. At this stage, we expect Optus will be unlikely to be in

a position to respond in detail to all issues by 14 June. On that basis, it would assist to understand the milestones that the Commission is working towards to ensure Optus provides information in a sequence that is of most help to the Commission in reviewing this matter.

Please let us know if you would like to discuss this further. We look forward to hearing from you.

Kind regards  
Haydn

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**Haydn Flack**

Partner | Competition, Risk & Regulatory

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