

25 October 2022

Jamie Martin  
A/g Director  
Competition Exemption  
Australian Competition & Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

By email: [mergerauthorisations@acc.gov.au](mailto:mergerauthorisations@acc.gov.au)

Dear Ms Martin,

**Australian Competition and Consumer Commission Statement of Preliminary Views -  
Application for merger authorisation by Telstra Corporation Limited and TPG Telecom Limited**

BAI Communications Pty limited (**BAI**) welcomes the opportunity to provide a submission on the Australian Competition and Consumer Commission's (**ACCC**) Statement of Preliminary Views dated 30 September 2022 (**Statement of Preliminary Views**), in relation to the application for merger authorisation lodged by Telstra Corporation Limited (**Telstra**) and TPG Telecom Limited (**TPG**).

**Recap about BAI**

As noted in our previous submission, through its international group of companies, BAI is a world-leading neutral host provider of 5G and connected infrastructure, with a wealth of experience in designing, building and operating complex communications networks, with operations across Australia, Canada, Hong Kong, the United Kingdom, Europe and the United States.

In Australia, BAI owns and operates an extensive broadcast transmission network, delivering terrestrial television and radio (including ABC and SBS television and radio services) to approximately 99 per cent of the Australian population. BAI also manages the New South Wales Public Safety Network, which is used for communications by emergency services organisations across the state. BAI is therefore deeply experienced in providing wireless services across Australia, including across the geographical region covered by the proposed Telstra/TPG MOCN arrangement.

The infrastructure that supports BAI's broadcast transmission network includes approximately 440 transmission towers which BAI owns or controls. BAI provides passive site-sharing services across this tower network to telecommunications operators including both Telstra and TPG. Having acquired a carrier licence in 2020, and using models successfully deployed by our Group companies internationally, BAI is looking to expand this offering to include innovative and competitive active sharing services as a 'neutral host'.

## **BAI's views**

BAI is a provider of passive infrastructure to the both of the applicant parties, and is a potential new-entrant provider of neutral host active sharing services in the geographic zone covered by the proposed Telstra/TPG MOCN arrangement. We have limited our views in this submission to matters on which we have a relevant perspective due to being a provider of these services. However, we first provide some relevant information on neutral host active sharing services, as may be relevant to the proposed TPG/Telstra transaction and to the counterfactuals being considered by the ACCC.

## **The neutral host model**

In the present context, a 'neutral host' is a non-MNO entity that builds, maintains and operates active mobile network infrastructure and provides access to this infrastructure to multiple network operators on a shared basis.

BAI has deployed neutral host services successfully in many transit environments overseas, including the New York subway and San Francisco BART system, and in 2021 was awarded a 20-year concession to deliver high speed mobile coverage across the London Underground. Our overseas subsidiaries also deliver neutral host services in venues including stadiums, hotels, hospitals and educational institutions. While these services tend to be a combination of 'small cells' and Distributed Antenna System (DAS) deployments, rather than the macro cell deployments that are typically deployed in regional areas of Australia, we believe that neutral host model has a role to play in improving connectivity in unserved and underserved areas of this country.

A major benefit of a neutral host model is the reduced capital costs to MNOs, as they avoid the cost of acquiring, establishing and maintaining their own sites. The capital cost savings can be directed to other aspects of the MNOs' business (such as accelerating the roll out of next generation services). Equally, where deployments are subsidised or fully funded by Government, the capital cost savings ensure that public funds are spent in the most efficient and effective manner. In our view, as the neutral host model matures, Australia's MNOs and Government will become more inclined to consider these services in order to save on capital expenditure.

Neutral host services also benefit from being able to extend the coverage of multiple MNOs into unserved or underserved areas simultaneously, without any of them needing to bear the resources, or all of the capital costs, of site establishment. Active sharing also uses less power and has a lower environmental impact than scenarios in which each MNO separately establishes its own site.

The benefits outlined above also materialise with an active sharing arrangement that is not a neutral host arrangement. For example, the proposed Telstra/TPG arrangement will only involve one MNO (being Telstra), rather than two, needing to maintain the sites used for the MOCN service. The benefits to the parties from this arrangement are espoused by the parties and recognised by the ACCC in paragraphs 6.25 to 6.38 and 6.44 to 6.51 of the Statement of Preliminary Views. However, a neutral host arrangement that is genuinely open to all MNOs (and indeed other customers such as fixed-wireless service providers and emergency services



networks) avoids the potential impact on competition of an MNO-led model, as the neutral host's natural incentive is to attract as many MNOs and other customers as possible to ensure that the capacity of the RAN equipment is utilised to the fullest extent, and has no reason to favour one customer over another. A neutral host model, led by a truly independent party, results in an open and unconstrained market for infrastructure access and network connectivity services.

### **Response to Telstra's statements about neutral host services**

In response to an information request from the ACCC dated 14 September 2022, Telstra has claimed that active sharing neutral host models have utility only "*in very specific situations*", will be of a quality standard of the lowest quality participating MNO, will limit the ability for MNOs to differentiate their services and be suitable only for a small pool of candidate sites<sup>1</sup>. In its response to the Regional Mobile Infrastructure Inquiry dated 30 August 2022 Telstra similarly claims that neutral hosting may result in a loss of service features, and has substantial technical challenges and complexities<sup>2</sup>.

BAI does not claim that macro-cell neutral host solutions will be suitable for all situations, or that neutral host infrastructure will come to replace MNO infrastructure on a large scale. However, we do believe that there is the potential for neutral host infrastructure sharing models to play an important role in improving connectivity outcomes in rural, regional, remote and peri-urban Australia, due to the potential for capital cost and operational cost savings.

Furthermore, BAI submits that Telstra overstates the disadvantages and technical challenges of neutral host solutions. Specifically:

- we do not see any reason why deploying neutral host services will result in lower quality, lesser service features, service degradation or higher levels of interference. We find it difficult to understand why Telstra would argue that this is the outcome of a neutral host solution but would not be the outcome for a MOCN sharing solution with TPG;
- implementing neutral host services in Australia will involve deploying new technological solutions, but BAI has no reason to believe that any technical challenges will be insurmountable. BAI's neutral host solutions overseas involve interconnection with all MNOs in relevant markets. While the solutions we have deployed overseas do not involve macro deployments, we believe it would be premature to dismiss neutral host solutions as not having the potential to play an important role in unserved and underserved areas in regional Australia, where the investment economics for deploying new services are particularly challenging; and

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<sup>1</sup> Telstra Corporation Limited, Submission to Australian Competition and Consumer Commission, *Telstra TPG Merger Authorisation Application Response ACCC Information Request dated 14 September 2022* (21 September 2022) 13.

<sup>2</sup> Telstra Corporation Limited, Submission to Australian Competition and Consumer Commission, *Regional Mobile Infrastructure Inquiry* (30 August 2022) 36-37.



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- BAI believes that Telstra overstates the challenges of being able to find sites that would be suitable for deployment of neutral host services with three participating MNOs.

Given the increasing appetite for the MNOs to divest infrastructure, pool spectrum and share networks (as evidenced by the proposed Telstra-TPG deal), BAI believes that shared network models, including those hosted by a neutral third party, will become more economically attractive and practically achievable as time goes on. As Telstra and TPG have demonstrated, it is possible to align the needs of multiple MNOs to achieve a satisfactory outcome for all parties. BAI posits that the mindsets of the MNOs are rapidly changing, and that the perceived constraints of today may not hold true in the near-term future, as local market players look to follow international trends and take advantage of more efficient deployment approaches.

### **Response to ACCC questions**

As noted above, BAI has only included a response to questions where its experience as a passive infrastructure provider across regional Australia, and its international experience as a neutral host, provide it with a relevant perspective. We have omitted the questions to which we have not contributed.

**Question 3: The ACCC invites information and submissions on whether and how the experience of overseas network sharing arrangements is relevant to the Proposed Transaction. The ACCC particularly invites any overseas examples of network sharing arrangements (now or in the past) that are comparable to the agreements under the Proposed Transaction, and information on the efficiencies achieved and the impact on competition.**

As outlined above, BAI provides active sharing solutions internationally as a neutral host, particularly across the United States, and is deploying a neutral host connectivity solution in the London Underground. While these solutions are not directly comparable to the arrangements under the Proposed Transaction, and involve small cell and DAS deployments in metro areas rather than large macro cell deployments in regional areas, in our view this does demonstrate that neutral host solutions are used by some of the largest MNOs in the world, and in complex environments. The potential for neutral host services to play a role in regional Australia should not be dismissed.

**Question 4: The ACCC invites view on the counterfactuals, including about the utilisation of spectrum by each MNO, including TPG's ability and/or incentive to monetise any unused spectrum and which entities (including neutral host providers) would be likely to purchase or lease such spectrum.**

**AND**



**Question 10: The ACCC invites views on the impact of the Proposed Transaction on markets for the acquisition of spectrum licences, including about the impact on TPG's and Optus' incentives to acquire spectrum licences covering regional areas of Australia.**

Where BAI provides fully managed transmission services to its broadcast customers it is typically authorised by those customers to use their spectrum for providing the service, rather than BAI itself acquiring spectrum for this purpose. Similarly, BAI's experience operating as a neutral host in international markets is that typically the MNOs would authorise the neutral host to use the MNOs' spectrum, rather than the neutral host itself acquiring the spectrum. In a Multi-Operator RAN (MORAN) neutral host model each of the MNO's signals would be carried on its own spectrum, while in a neutral host MOCN arrangement the MNOs' spectrum would be pooled and available to carry the signals of each of the participating carriers.

However, it is also possible for the neutral host to procure its own spectrum for use by MNOs. BAI would not rule out being a potential acquirer of spectrum in the future, including any spectrum that may be monetised by TPG.

**Question 11: The ACCC invites views on the impact of the Proposed Transaction on the acquisition of mobile network infrastructure services.**

The Proposed Transaction will result in one fewer MNO wishing to acquire passive infrastructure services in the coverage zone. This in turn will have some impact on the incentives of passive tower infrastructure owners to invest within this zone.

BAI does not yet have precise enough information to determine how many BAI sites TPG may seek to relinquish as a result of the Proposed Transaction, or what the financial impact this may have. However, passive site sharing is a relatively small part of BAI's business, and we do not expect that the loss of one MNO will materially affect our incentive to invest in the region.

**Question 17: The ACCC invites views and any further information in relation to any additional public detriments likely to result from the Proposed Transaction.**

BAI notes that TPG has ~725 mobile sites in the regional coverage zone covered by the transaction, and that Telstra would gain access to ~169 of these, taking over TPG's existing co-location agreements at these sites. It appears that the remaining ~556 sites in the relevant coverage zone will be decommissioned by TPG.

The parties have stated that the sites to be assumed by Telstra cover areas where TPG (and not Telstra) has coverage, and, in other more populated areas where Telstra does have coverage, have been selected to improve the depth of coverage and capacity of the MOCN.

While it is logical that the sites selected to be assumed by Telstra will be used to fill coverage gaps and improve coverage depth and capacity, as far as BAI is aware there is no guarantee that the ~556 sites that will be decommissioned by TPG will not result in loss of, or a reduction in, coverage at some locations. In BAI's view this situation could be avoided through appropriate undertakings from the parties, to ensure that no existing customers suffer a reduction in service quality.

Should the ACCC wish to discuss any aspect of this submission or require any further information, please feel free to contact me.

Yours sincerely,



**Emma McCormack**  
**General Counsel**  
**BAI Communications**