



21 June 2022

Australian Competition and Consumer Commission
Merger Authorisations Branch
23 Marcus Clarke Street
Canberra ACT 2601

Via email: mergerauthorisations@acc.gov.au

Dear Mergers Authorisation Branch,

Re: Authorisation for proposed Telstra/TPG spectrum sharing in regional Australia – interested party consultation

The National Farmers' Federation (NFF) and the Regional, Rural and Remote Communications Coalition (RRRCC) welcomes the opportunity to provide a submission to the *Telstra and TPG application for merger authorisation for proposed spectrum sharing in regional Australia – interested party consultation* (the Authorisation) by the Australian Competition and Consumer Commission (ACCC).

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The RRRCC is an alliance of volunteer and advocacy organisations with a shared interest in improving telecommunications in the bush. The Coalition was formed in 2016 to raise awareness of the important role of connectivity for regional, rural and remote Australians and to advocate for continued improvements. The NFF provides the secretariat services to the RRRCC.

The NFF has a target of reaching \$100 billion in farm gate output by 2030. This target forms part of our ambitious *2030 Roadmap* – our plan to grow and advance our sector in the coming decade. A key element to achieving this target will be ongoing improvements to telecommunications and connectivity services in regional Australia.

The NFF is committed to advocating for regional communities to have **accessible, reliable, quality and affordable** telecommunications and connectivity services.

In assessing the Authorisation, the NFF requests that the ACCC give overall consideration to these principles, such that any determination supports a market environment that acts to enhance the realisation of them both in the immediate and longer-term.

While noting that the Authorisation is primarily concerned with the sharing of network spectrum, the NFF seeks that the implications of the totality of actions the application would give rise to (herein referred to as the Network Sharing Agreement) are considered as they relate to the aforementioned telecommunications and connectivity principles.

The NFF acknowledges that the arrangements that the Network Sharing Agreement concern, principally the access of an expanded coverage area by TPG (and its associated retail products), would appear to increase consumer choice, as well as provide for a more fulsome coverage profile for those currently on TPG services. When taken at a high level, such factors should support a more competitive consumer environment.

Further, the NFF has long called for network infrastructure sharing in order to make capital allocation in the sector more efficient. Such efficiencies are hoped to further support increases in network expansion, product offerings and price competition.

Notwithstanding these overall comments pertaining to the Network Sharing Agreement, in accessing the Authorisation, the NFF would request the ACCC give specific consideration to the following factors.

Impact on price and non-price aspects of competition

The NFF has consistently advocated for additional competitive tension in regional telecommunications markets to support improved consumer outcomes. Consideration should be given to the impacts of the deal on the competitive consumer environment, which in turn being an antecedent to both primary price and non-price outcomes. These include service affordability, product choice and availability arising from the ability of additional retail offerings to compete via the expanded network footprint.

In assessing these outcomes, consideration should be given to the longer-term competitive landscape that may arise from the Authorisation. The NFF recognises that a competitive marketplace may result in impacts on network operators as they compete (successfully or otherwise) for consumer business. However, assessment must be given to ensure a longer-term net reduction in competition, and subsequent net public detriment, is not likely to materialise from this Authorisation. This Assessment must be made of the market as a whole, concerning operators both included and not included in the Network Sharing Agreement, and extend also to assessing infrastructure-based competition in regional markets.

Spectrum allocation

In assessing the acquisition of spectrum by Telstra, an assessment must be made regarding any benefits that may arise from the purported use of TPG-owned underutilised spectrum by Telstra to address capacity and congestion issues on existing networks.

As the NFF stated in its submission to the 2021 Regional Telecommunications Review (the RTR), congestion is a challenge that directly impacts service reliability for regional users. Supporting this assertion, finding 8 of the RTR found increased ongoing demand for data on regional, rural and remote mobile and fixed wireless networks is not always being met, causing network congestion issues on mobile services.

Given this, the ACCC should seek to determine if the Application would give rise to beneficial outcomes in this regard through the use (acquisition) of the underutilised spectrum by Telstra. Moreover, such use of underutilised spectrum may present one of the more immediate mechanisms to seek to mitigate congestion issues, having impact quicker than network and infrastructure upgrades or other technological solutions.

However, such a determination of the benefits of the reallocation of spectrum should ensure these are not outweighed by any negative impacts arising from an increased concentration of available spectrum by any one market network operator. This should include consideration of specific bandwidths included in the acquired spectrum and their use in regional telecommunications and business applications both now and into the future.

Services delivery arrangements

The ACCC should assess the relevant agreements between the operators to ascertain the extent to which structural elements of the Network Sharing Agreement may impact on consumer outcomes. Specific spectrum access arrangements, including non-discrimination clauses on various bandwidths, should be reviewed to understand the impacts on service reliability.

Additionally, it is understood that users of non-Telstra products (including virtual Mobile Network Operators) will have a 6-month delay on accessing 5G services compared to Telstra products. For the agricultural community, many current and expected agri-tech opportunities will be enabled by 5G access, and many consumers will form purchasing decisions with this consideration in mind.

While it is important that the impacts of such arrangements on fostering a more competitive landscape are understood, at a minimum, consumers should be made aware of where such arrangements may impact their user experience, so as to allow their purchasing decisions to be accurately informed.

Network and service expansion

The NFF recognises that the Network Sharing Agreement relates to the Shared Coverage Zone and is not intended in and of itself to expand coverage. Nonetheless, consideration should be given to any direct or indirect impacts on ongoing coverage expansion that arise from a Network Sharing Agreement.

While understanding that unique challenges exist in expanding coverage to the final 0.5% of the population, within the Shared Coverage Zone for which this deal relates, localised coverage gaps exist in no small part and present genuine connectivity challenges. In making its Assessment, the ACCC should ensure the resulting market landscape, both now and overtime, does not see a reduction in the incentives for network operators to deliver more reliable coverage as a means of competing for regional customers.

Should you seek any further information on this submission, please do not hesitate to contact Mr Christopher Young, the General Manager - Rural Affairs, via email at [REDACTED] or on [REDACTED].

Yours sincerely,

[REDACTED]

ASH SALARDINI
Acting CEO