

Submission - Telstra Corporation Limited and TPG Telecom Limited proposed spectrum sharing

The need for a comprehensive mobile telecommunications review

In previous submissions we have argued for domestic roaming in regional areas. For the last 20 years we have consistently argued that it doesn't make economic sense to overbuild mobile infrastructure in most regional areas. As a result, Telstra remains the dominant player in the regional mobile market. There is little or no mobile competition in these areas which leads to low level of mobile coverage, often lower levels of quality, no choice for consumers and potentially higher prices. Despite all of this the ACCC has over that period failed to declare roaming in regional areas.

Now add to this the recent changes in the business model that Telstra has implemented. They have split their company in three major areas of which two are now separate infrastructure businesses, one based on mobile and the other one of fixed networks.

By doing so they are changing the telecommunications environment in Australia and in particular the mobile element of it. (The NBN has already changed the fixed infrastructure market).

Since deregulation some 30 years ago regulations have been built around infrastructure-based competition. Regulation facilitated this and discouraged the sharing of infrastructure and sometimes actively prohibits it.

Now Telstra has changed this by actively promoting the sharing of their infrastructure with other players. It is therefore totally rational for players to use this opportunity to enhance their reach into the market through the new opportunities provided by Telstra. There where the ACCC failed to make sharing possible, Telstra has made a 180-degree turn around and are now offering such services voluntarily.

Telstra is not doing this out of their goodness, but because the telecommunications market has changed beyond recognition in comparison to the market 30 years ago. It is now all about the digital economy and the digital society. Increased competition from the digital giants and also competition among the three main mobile operators forced Telstra to lower its costs and look for new revenue opportunities and hence its offerings in infrastructure wholesale services to its competitors. Something they have violently opposed for many decades.

We would argue that these changes require a total review of mobile telecommunications regulations.

The TPG-Telstra is a good example of this as it totally undermines the old regulatory regime.

In the mobile market, spectrum policy was based on ensuring that this would not lead to monopolisation. The deal clearly ends that policy as TPG would hand over its spectrum

to Telstra. As TPG - under this new deal - doesn't need the infrastructure in regional areas where Telstra has its own infrastructure, it will close down its own infrastructure.

While mobile infrastructure competition in regional areas - for economic reasons - was already very weak, the deal would end that totally as also Optus has questioned its regional investments if the deal will be allowed. This stops any competitive pressure on Telstra to extend its regional network and furthermore it will become the sole recipient of government subsidies provided under the Black Spot policy, where it is aiming to extend the mobile network into regional areas.

This clearly means the end of infrastructure-based competition.

While we are in favour of domestic mobile roaming in regional areas, the question is, should that be dominated by strategies based on changes in the Telstra business model or should that be based on telecommunication regulations reflecting the telecommunications environment in 2022 and not the one from the 1990s.

The issue is currently vigorously discussed within the industry. The outcome in our opinion should not be a straightforward acceptance or rejection of the proposal, but an opportunity the ACCC should use to change regulation to much better reflect the reality that infrastructure sharing as an essential tool to move forward. The decision from the ACCC should be based on what is good for the consumers not on what the best outcome would be for the industry.

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