

Symbio: Telstra TPG Spectrum Transaction – submission – 14 June 2022

Symbio welcomes this opportunity to make a submission to the Australian Competition and Consumer Commission's (ACCC) market inquiries into Telstra Corporation Limited (Telstra) and TPG Telecom Limited's (TPG) application for merger authorisation for proposed spectrum sharing in regional Australia (Application) under the *Competition and Consumer Act 2010* (Cth) (CCA).

Symbio is a communications provider which offers a complete solution for launching, scaling and managing communication services in the cloud. As part of the provision of these services, Symbio acquires wholesale mobile services and provides mobile virtual network operator (MVNO) services to its customers.

There are already significant shortcomings in the way in which the mobile market operates in Australia. In particular, the market for the supply of mobile services on a wholesale basis in Australia is extremely limited when compared to equivalent overseas jurisdictions. Symbio supports greater and more open access to mobile services on a wholesale basis in Australia given its importance to Symbio's business.

Symbio considers that the proposed MOCN commercial arrangement will further entrench Telstra's dominance in the market. This will reduce even further the bargaining position of MVNOs and is likely to substantially lessen competition in the wholesale mobile service market. This in turn will have a detrimental impact on the mobile market more broadly.

Mobile network operators can allow MVNOs to access their network at different levels. At the 'thinnest' level, the MVNO is able to do little more than re-brand and resell a service the parameters of which are determined by the MNO. At a 'thick' level the MVNO has greater access to the technology stack and is able to provide meaningful competition and differentiation at the service level as well as at the brand level.

MNOs in Australia, and Telstra in particular, have consistently refrained approaches towards a 'thick' MVNO model in the Australian market in its commercial and technical constructs. Instead, MNOs have sought to limit innovation from MVNOs, and the product and service offering that MVNOs are able to provide customers based on the wholesale made available by the MNO. While wholesale customers have consistently requested MNOs to provide better access to the technology stack in order to allow the MVNO to provide more innovative and differentiated services to the market, MNOs have failed to provide this access. The MVNO offerings in the Australian market are among the thinnest in the world and clearly preference the MNO's own retail service. This in turn limits the ability of MVNOs to compete vigorously in the retail market. The ACCC's own Communications Market Report shows a rapid and concerning decline of the MVNO market share from 15% in 2019/2020 to only 9% in 2020/2021. The same report also documented Telstra's share of the mobile market growing from 42% to 44% in the same timeframe. It is difficult to see the boost to Telstra's market dominance which the authorisation of this transaction would undoubtedly deliver could have anything other than a detrimental impact on competition in the market.

The proposed transaction would effectively hand Telstra a massive share of low band regional spectrum, thereby circumventing the allocation limits imposed by the ACMA in the spectrum auction rules. In addition, it would result in virtually all low band regional spectrum being controlled by either Telstra or Optus. This is likely to foreclose market entry by new and innovative players in the market. Such new entrants include existing niche providers providing localised network services.

In conclusion, Symbio considers that the proposed MOCN arrangements, if authorised, would substantially lessen competition in the mobile market and that there is no public benefit from the proposed transaction which would outweigh the likely public detriment.

Symbio is happy to discuss concerns further with the Commission whenever would be convenient.