



## Optus Submission

Facilitating the use of private infrastructure to  
deliver telecommunications services

October 2014

## **Introduction**

1. This short submission provides Optus' comments in response to the Consultation Paper issued by the Department of Communications on proposed licencing changes to facilitate the increased use of private infrastructure to deliver telecommunications services.
2. Optus notes that it supports the proposed changes as these are likely to reduce the costs and improve the timeliness associated with accessing private infrastructure by telecommunications carriers.
3. Optus has set out brief comments to the questions raised in the Consultation Paper below.

### ***What large private infrastructure networks exist?***

4. Optus notes that there are multiple forms of private infrastructure networks across Australia, such as those operated by transport and utilities (enterprise and government electricity typically), mining companies and major retail outlets. There are also wireless private networks such as those operated by the Emergency Services organisations.

### ***What benefits may accrue from facilitating greater infrastructure sharing along the lines proposed?***

5. Optus considers that the main benefit from the proposal is likely to be the reduction in compliance costs and improved timeliness in implementing infrastructure sharing arrangements.
6. Where there are strong commercial incentives for sharing of private network infrastructure then this is likely to happen irrespective of the proposed change to the licensing arrangements.

### ***Is the proposed exemption a practical and useful approach?***

7. Optus supports the proposed exemption. It will streamline the processes for carrier to access private network infrastructure.

### ***If not, are there alternatives to the exemption model outlined that should be considered?***

8. See answer to question 3 above.

### ***What risks may arise from the proposed exemption?***

9. Optus does not see any risks arising from this arrangement. Carriers that are likely to access private networks to supply services to the public are already subject to an extensive array of regulations. Carriers will need to take into account their ability to meet these obligations when negotiating access to private infrastructure.

### ***Would inclusion of an open access condition mitigate risk for carriers?***

10. Whilst it should remain a voluntary decision for private infrastructure owners to provide access to their networks, it is important that such access arrangements do not interfere with the existing competition policy settings.

11. At a minimum Optus recommends that it is made clear that Carriers cannot avoid their obligations under existing regulations (including where relevant access to declared services) by virtue of the fact that a service is supplied fully or partially over a private network. For example, a carrier should not be able to avoid providing Domestic Transmission Capacity on a specified route if part of that route is supported by private infrastructure. The need to comply with such an obligation would be factor a carrier would take into account in negotiating access.

In addition, there should be a presumption against access being provided on an exclusive basis.

***Should the proposed exemption be limited, for example by inclusion of a competition test or geographic limitation?***

12. If the protections noted in answer to question 6 are adopted, Optus does not see any need for further restrictions on the proposed exemption.
13. Optus does not anticipate that the proposed changes will significantly impact existing incentives for carriers to seek agreements to gain access to private network infrastructure.