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Mr Sean Edwards
Chair
Regional Telecommunications Review 2018
GPO Box 2154
CANBERRA ACT 2601

By email: secretariat@rtirc.gov.au

Dear Mr Edwards

Re: Regional Telecommunications Review 2018

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide a submission to the Regional Telecommunications Independent Review Committee (RTIRC) 2018. This is an important review and we support the Committee's consideration of key issues including the use of digital technologies and services in regional areas, the outcomes of the Mobile Black Spot Program (MBSP) and gaps in mobile coverage in regional Australia.

The ACCC has recently been working with industry, government and regional stakeholders on several regional telecommunications issues. Our submission will address those questions in the RTIRC issues paper most relevant to the ACCC and outline relevant observations based on our recent work on regional telecommunications issues.

The ACCC's role

There remains a digital gap between metropolitan Australia and regional Australia in terms of the availability of telecommunications infrastructure, the availability and quality of telecommunications services, and the ease with which consumers and businesses alike can access and use those services.

As an economic regulator, the ACCC assists in lowering the economic barriers of access to digital connectivity by regulating competition in the sector, thus ensuring that prices do not increase artificially and so that the markets can deliver better services and lower prices to consumers.

As a consumer protection agency, the ACCC administers and enforces the Australian Consumer Law, contained in Schedule 2 of the *Competition and Consumer Act 2010* (CCA).

This submission focuses on the ACCC's role and experiences in regional issues as an economic regulator. However, we would be pleased to provide further information to the Review Committee on our consumer protection role and how it affects regional telecommunications consumers.

The ACCC is responsible for the economic regulation of the communications sector, including telecommunications and the National Broadband Network (NBN). We perform industry-specific competition and access functions under Parts XIB and XIC of the CCA, aimed at promoting competition, remedying market failure, enabling access to essential infrastructure, and protecting consumers in these sectors.

Among other things, our work includes:

- assessing and enforcing terms of access to the NBN in a special access undertaking (SAU) from NBN Co
- assessing and enforcing Telstra's structural separation undertaking and plan to migrate its customers to the NBN
- setting wholesale prices and wholesale terms of access for declared services
- monitoring and reporting on prices and competition in the communications sector, and
- investigating claims of anti-competitive conduct in the communications sector.

Background

Achieving better connectivity in regional Australia requires significant ongoing investment in infrastructure in regional areas, where the commercial incentives to invest are typically lower than in more populated cities and regional centres.

As the economic regulator of the telecommunication sector we want to ensure that the regulatory settings, while promoting competition, do not undermine continued investment in telecommunications infrastructure in regional Australia. Our work in the mobiles sector provides a good example of this.

In 2016-17, the ACCC held an inquiry into whether a domestic mobile roaming service should be declared. This was in response to concerns that Telstra had a significant advantage with its greater geographic mobile network coverage that was acting to the detriment of consumers.

The ACCC concluded that declaration would not lead to lower prices, better coverage or quality of services for consumers. Further, declaration could harm the interests of consumers by undermining the incentives of mobile operators to invest and compete with each other in regional areas. The full reasoning for the ACCC's decision can be found in the final report of the inquiry.

A key concern from regional consumers, businesses and representative groups during the inquiry was the potential impact of regulated roaming on investment in regional Australia. We examined this issue very closely.

Since releasing our decision not to declare domestic roaming, we continue to track investment in regional Australia and have been pleased to see continued investment by mobile networks.

The ACCC recently made changes to its record-keeping rules to track infrastructure investment in mobiles and will continue to monitor this to ensure that regulation (or the absence of regulation) continues to provide incentives for efficient investment.

Work on regional mobiles issues

While the ACCC decided not to declare a domestic mobile roaming service, we recognised that in many parts of regional, rural and remote Australia, consumers and businesses could not access adequate or contiguous mobile services.

We identified specific matters that could be improved in order to encourage more competition in regional areas or to address poor coverage. In October 2017, we set these matters out in the paper 'Measures to address regional mobile issues' (Measures Paper), which proposed actions that could be taken by the ACCC, by Government and by industry to address some of the issues raised during the roaming inquiry. This included measures to reduce the cost of deploying mobile networks and improve mobile coverage and provide quality information to consumers and policy makers.

Following the release of the Measures Paper, a number of stakeholders approached the ACCC seeking to be further involved in discussions around the implementation of the paper. While some of the measures were within our powers, others were not and require ongoing collaboration and engagement. Recognising this, we decided to hold a Regional Mobile Issues Forum (the Forum) in February 2018 with a number of industry, government, community and regional stakeholders to develop a collaborative approach to improving these issues. The key observations on our work relevant to the RTIRC are outlined in the section below. We also encourage the Committee to review our summary report of the Forum provided at **Attachment A** as it contains information from both regional consumers and businesses.

More information, including the Measures Paper, can be found on our website: <https://www.accc.gov.au/regulated-infrastructure/communications/mobile-services/regional-mobile-issues>.

Regional mobile issues

Lack of adequate mobile coverage to meet consumer needs is a serious issue for regional Australians. The ACCC considers that much would be gained from an extensive study on the drivers behind inadequate coverage, uses of mobile technology and possible public policy measures to support regional Australians' access to mobile connectivity.

The ACCC expects that the market will deliver minor incremental improvements in new coverage, significant increases in technology upgrades and an increase in areas covered by more than one operator. However, commercial investment decisions are getting more difficult to make and there is a need for targeted public intervention to deliver the services that consumers need.

We have grouped these public interventions into the following three areas:

- improving consumer information by increasing the accuracy and comparability of coverage maps, and availability of tools to boost reception,
- improving regulatory settings to reduce the cost of deploying infrastructure, and
- public investment in mobile coverage.

Improving consumer information

Information barriers regarding digital technologies and services in regional Australia may impact consumer choice and competition. Currently, mobile coverage maps do not allow for a meaningful comparison of network coverage and quality. Each of the MNOs use different underlying metrics to develop their maps and use different measures to indicate coverage. Further, coverage claims made by mobile providers do not always reflect actual experience or the quality of coverage offered.

At the ACCC Forum, the MNOs acknowledged coverage map issues individually and committed to discussing ways to improve the comparability of maps. In response to a request from the ACCC, the Australian Mobile Telecommunications Association (AMTA) is currently working with Optus, Telstra and VHA to discuss ways to improve the comparability of mobile coverage maps. This includes the MNOs using consistent terminology by these MNOs to describe their basic levels of coverage to be used when publishing coverage maps.

AMTA recently wrote to the ACCC announcing that its members have made progress on these measures. The ACCC will continue to advocate for improvements on these measures.

The Issues Paper asks whether information is readily available regarding how to use devices to improve mobile reception in areas with poor coverage, for example, information about external antenna equipment (question 11).

Several participants in the ACCC's Forum commented that a lack of consumer understanding on these issues and the high cost of legal boosters may result in consumers opting for cheaper, and potentially illegal technologies to boost reception. Further, some participants at the Forum suggested that subsidies for legal boosters and assistance in helping people set them up may alleviate the issue.

The ACCC Forum found there is a need for more accessible information on the types of permitted hardware that could be used to improve consumer coverage experience and a need for a one-stop shop for all the relevant information necessary for consumers to make informed choices.

The ACCC asked AMTA in May 2018 to examine these issues with its members.

Reducing the cost of deploying infrastructure

Both the Measures Paper and ACCC Forum highlighted the need for regulatory settings to ensure there are no barriers to efficient investment in infrastructure in regional areas.

The ACCC has recently commenced a review of the Facilities Access Code. The Code provides administrative and operational procedures that must be complied with by carriers providing access to eligible facilities. The purpose of the Code is to encourage co-location of facilities and to facilitate access to eligible facilities in a timely and efficient manner.

The Measures Paper identified actions that may reduce the costs of deploying and improving mobile networks, including aspects of the Code designed to facilitate access to mobile towers and the sites of towers. The ACCC considered that, while the Code appeared to be working well, a review was necessary to identify and remove any barriers to the timely deployment of mobile infrastructure, particularly in regional areas. The ACCC also noted this issue again in our recent Communications Sector Market Study Final Report, where we committed to reviewing the Code, particularly around the issues of co-location at greenfield mobile sites.

The ACCC is also currently also conducting the Domestic Transmission Capacity Service (DTCS) declaration inquiry. Mobile backhaul or transmission in regional and rural areas is a

significant cost to extending mobile networks because of low population density and high infrastructure costs. As part of the review, the ACCC is considering whether transmission services to mobile base stations or towers in remote and regional areas should be specifically regulated under the DTCS.

The ACCC considers that these processes will ensure that its regulatory settings continue to promote investment in regional mobiles infrastructure.

Public investment in mobile coverage (question 10)

The ACCC broadly supports government subsidy programs, including the Mobile Black Spot Program (MBSP). These programs have the potential to promote investment in areas where there is inadequate or no mobile coverage, and where commercial incentives are low.

The Issues Paper notes that co-investment appears to be the main way to improve mobile coverage into the future but notes that it is difficult to quantify the benefits given mobile connectivity is an enabler across many parts of everyday life. It asks what economic or social indicators could be used to guide investment to further improve mobile coverage.

The ACCC considers that government investment in mobile coverage subsidy programs would greatly benefit from improved mobile coverage data to facilitate evidence-based selection of subsidy sites. There is currently a lack of accessible, accurate and complete mobile coverage information for regulators and policy-makers for the purposes of designing these types of programs.

This lack of information affects the ability of policy makers and regulators to target such programs to best meet community needs and greatly limits the ability to accurately examine gaps in coverage. For example, the MBSP has relied on identifying coverage black spots using information nominated by communities, rather than relying on MNO coverage information. This risks an inefficient allocation of scarce government resources.

The ACCC considers that investment priorities could be determined based on where the greatest number of people and businesses (including a consideration of the value of the production of those businesses) would benefit from improved connectivity. This may ensure that investments are made where the greatest number of people and business/economic activity benefit.

Regional broadband services

The Issues Paper asks how more competition can be encouraged in the provision of broadband services in regional Australia.

As the rollout of the NBN has developed, we are seeing greater retail competition in regional and metropolitan areas. In our Communications Sector Market Study Final Report, we observed strong price competition for NBN services, with nationally uniform prices, and many service providers offering lower prices and limited time discounts to attract customers.

We have also observed several new providers entering the NBN market and existing service providers seeking to expand their customer base. There have also been positive developments in non-price competition on the NBN, with increased data quotas (as many service providers now offer unlimited data), options to customise plans, bundles with voice and entertainment services, and different contract options.

In the move from legacy services (ADSL/HFC) to the NBN, we have observed a small change in the retail market share with the largest providers (Telstra, TPG Group, Optus and Vocus Group) losing three per cent to smaller providers (94 per cent market share on the

NBN compared to 97 per cent for legacy services), signalling an increase in retail competition.

In particular, we have observed some decline in Telstra's regional market share for retail broadband services on the NBN where its dominance has historically been greatest. Telstra's market share of NBN access services in metropolitan areas is 43 per cent, which is similar to its market share of traditional broadband technologies. In regional areas, however where it has enjoyed much larger market shares, up to 90 per cent in some areas, Telstra's market share of wholesale NBN access services is around 55 per cent. The ACCC regulates some parts of the telecommunications supply chain to encourage competition, efficient use of and investment in telecommunication networks used for mobile and fixed line services, such as transmission networks. The ACCC also regulates access to telecommunication facilities and equipment so that carriers can easily interconnect their networks and provide a national service to consumers.

While there are some NBN POIs where there is limited infrastructure competition, the transmission routes from POIs with limited infrastructure competition are regulated. Further, there is some evidence to suggest that commercial agreements are being negotiated for transmission to these POIs. For example, Aussie Broadband and M2 have recently negotiated transmission agreements with Telstra for access to all 121 NBN POIs.

Competition in the supply of transmission services, including the NBN POIs, is still developing. As noted above, the ACCC is currently reviewing the DTCS declaration. As part of this review, we will be examining competition for transmission services in regional areas and considering whether regulatory mechanisms could be adjusted to promote incentives for ongoing investment in regional areas.

Service quality issues over NBN satellite and fixed wireless services (question 8)

Another significant issue that disproportionately affects remote and regional consumers is the service quality of remote satellite services. The ACCC has investigated this significantly in the past year.

Through liaison with various consumer representative groups, we have become aware of various connection and service quality issues with satellite services, including the cancellation of appointments, long waiting times for installation of satellite services, multiple outages resulting in long periods of disconnection, and difficulty in consumers obtaining adequate remedies from satellite providers to address these issues.

The ACCC is also aware of congestion on the fixed wireless network. Customers on congested cells may not be receiving a reasonable user experience during the busy hour, as the speeds available reduce the quality of some internet applications, or potentially make them unusable. NBN Co must provide RSPs and consumers with better, location-specific, information about congestion on the fixed wireless network as well as greater assurance to consumers that they will receive the service they are paying for.

We are continuing to monitor these concerns, including looking into some of these issues in current ACCC regulatory projects, such as our NBN Wholesale Service Standards Inquiry.

Consumer Safeguards Review and the Universal Service Guarantee

As noted in the RTIRC issues paper, there are a number of complementary reviews currently being conducted by the Australian Government including the Consumer Safeguards Review and the development of the Universal Service Guarantee (USG).

Consumer Safeguards Review

The ACCC is providing a submission to Part A of the Consumer Safeguards Review, regarding redress and complaints handling. We consider that effective redress and complaints resolution processes in the telecommunications sector is essential for consumers and small businesses, including those in regional Australia.

Parts 2 and 3 of the Consumer Safeguards Review may be more relevant to the RTIRC, as these focus on the reliability of telecommunications services (Part 2) and the ability of consumers to exercise informed choice in selecting services and that they are treated fairly (Part 3). As these parts of the Review have not yet commenced, the ACCC is unable to make detailed comment about any overlap between these parts of the Review. The ACCC will make submissions to these Parts of the Consumer Safeguards Review in due course.

Universal Service Guarantee

The USO and the development of the new USG are critically important to ensure that consumers in regional, rural and remote parts of Australia have access to essential telecommunications services. The ACCC is following the development of the new USG very closely and we are happy to contribute our views and experience where needed.

As we continue our work on regional telecommunications issues, we would be happy to provide further information and updates if it would assist the Committee. [REDACTED]

Yours sincerely



Delia Rickard
Deputy Chair
ACCC

