

18 January 2022

Senator the Hon. Bridget McKenzie
Minister for Regionalisation, Regional Communications & Regional Education
PO Box 6100
Senate
Parliament House
Canberra ACT 2600

Via email: minister.mckenzie@infrastructure.gov.au

Dear Minister,

Wholesale sharing of network expansions funded by the Mobile Black Spot Program

Thank you for your recent engagement with Commpete, Australia's Alliance for Competition in Digital Communications, representing challenger telecommunications providers.

We hope our support can help inform public policies that will lead to improved telecommunications services to regional, rural and remote areas of Australia.

Commpete discussed with your senior advisor, Lachlan Hunter on 15 December 2021 various opportunities to promote access and use of blackspot funded areas in regional Australia. Following that meeting we wish to provide further information regarding competitive access to support those discussions.

The Mobile Black Spot Program (the Program) has successfully expanded and improved mobile coverage in areas where commercial incentives to invest in network infrastructure may be weak. However, access to much of the co-funded infrastructure is denied to mobile virtual network operators (MVNOs).¹ This unduly limits the service options available to people living, working and travelling in many areas that are served exclusively by base stations funded under the Program.

Commpete believes that this situation should be addressed so that mobile network operators (MNOs) that have received public funding to expand their network coverage are required to make those expanded coverage areas available to their wholesale MVNO customers.

Open access to publicly funded telecommunications infrastructure promotes competition and helps to distribute the benefits of the subsidy more broadly. To that end we note the Program's previous guidelines expect grantees to offer co-location access to other MNOs. Grantees are also permitted—though not incentivised—to offer roaming access to other MNOs. However, the guidelines (and presumably the grant agreements) are silent about the grantee providing access to the expanded coverage areas to any wholesale MVNO customers the MNO may host on its network. This gives the grantee undue discretion to foreclose access to publicly funded expansions of mobile coverage.

Thus, Telstra typically offers its wholesale MVNO customers access to co-funded coverage expansions only if the subsidised base station happens to be situated within Telstra's existing wholesale coverage area.² That wholesale coverage area generally mirrors the combined network footprint of the other MNOs. Consequentially, MVNOs on Telstra's wholesale 4G network are denied access to the expanded coverage made possible by 148 mobile sites co-funded under the Program

¹ An MVNO is a mobile service provider that does not own the radiofrequency spectrum or network infrastructure over which it provides its services to end-users. Instead, an MVNO establishes a commercial agreement with a mobile network operator for wholesale access to its network.

² www.telstrawholesale.com.au/products/mobiles/mobile-blackspot-program.html

(as at the release of Round 5).³ At five of those sites access to Telstra's 3G network is also denied, creating a new generation of black spots for Telstra's wholesale customers and a series of sub-market monopolies for Telstra's retail operations.

The upshot is that people living and working in the affected areas are better served in terms of access but continue to be underserved in terms of choice. This seems a perverse outcome given the intent of the Program is to improve both coverage and competition.

Telstra's refusal to provide access to publicly funded coverage extensions seems to be solely an exercise of its market power—Telstra refuses because it can. The common claims that co-location obligations dampen network investment incentives do not apply because Telstra, of its own volition, has chosen to offer a wholesale MVNO service. The threshold decision to offer access to MVNOs has already been taken.

An enduring solution to this and the many other competition problems that obstruct the development of the MVNO sector will ultimately require some form of mandatory access obligation on MNOs. Indeed, 5G's potential for network slicing provides an opportunity to empower MVNOs and enable an additional (MVNO-led) wave of competitive forces and innovation incentives in the 5G era.⁴

The immediate remedy to the denial of access to publicly funded coverage expansions is to make its inclusion in wholesale MVNO offers a condition of funding. That is, if a grantee chooses to offer a wholesale MVNO service then it should be obliged to include in its wholesale coverage and technology network footprints ALL sites that have been co-funded with public money. Doing so would immediately introduce choice and competition into areas that have benefited from the installation of all mobile infrastructure under the Program but still have only one service provider to choose from.

In the interests of improved mobile service for regional constituents and fairness for all, Commpete encourages you to consider introducing such a measure—with retrospective effect— as part of the forthcoming Program funding round.

Thank you again for interest in Commpete. Commpete and its members look forward to engaging with you and your team, and the opportunity to continue to promote strong relationships into the future.

Yours sincerely,



Michelle Lim

Chair

³ We have mapped these sites at <https://tinyurl.com/ExcludedSites>, current as at commencement of Round 5 (Feb 2020).

⁴ For a fully description of the potential use of network slicing to this end, see Commpete's submission to the House Standing Committee of Communications and the Arts Inquiry into the deployment, adoption and application of 5G in Australia (Submission 313, 31 October 2019), available at www.aph.gov.au/DocumentStore.ashx?id=b7258fed-5894-43b5-a333-29c1da1be9c5&subId=673130