DRAFT: Response to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts Discussion Paper on the Registration or Licensing Scheme for Carriage Service Providers

4 December 2023

Introduction and summary

Commpete welcomes the opportunity to make a response to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) on their Discussion Paper on the Registration or Licensing Scheme for Carriage Service Providers (CSPs).

Commpete is an industry alliance for greater competition in telecommunications markets. Our members are smaller operators and stakeholders in the industry and have challenges that result from relatively smaller scale. However, our members are dynamic and innovative in their business operations and are important contributors to innovation and the robustness of competition in the sector.

Commpete broadly acknowledges the issue presented:

- there is a licensing scheme for telecommunications carriers (network operators), however no singular listing arrangements exist for CSPs (telecommunications retailers).

- Increasing visibility of CSPs operating in the market, for example to support the ACMA's work to educate providers about their obligations and target enforcement activities;

- Facilitating an effective mechanism the ACMA can use to stop CSPs operating in the market who pose unacceptable risk to consumers, or cause significant consumer harm.

- Noting this requires an accompanying obligation on CSPs to be registered/licenced to sell services to customers and a power for the ACMA to revoke a registration or licence.

In this submission we have not sought to address all of the questions raised in the DITRDCA's discussion paper. Instead, we make the following general comments and respond to some (but not all) of the specific consultation questions further below.

Commpete holds the view that a light touch low-cost integrated scheme offering one time registration, not licensing, will facilitate visibility of the telecommunications market while also maintaining low barriers to market entry for CSP participants.

Commpete would also like to clarify the line of demarcation for wholesale CSPs with regards to the validation, engagement and continued confirmation of registered CSPs. We consider the management of such a scheme rests with the appointed body, for example the ACMA, and the obligation for registration lies with the CSP.

Questions for feedback in the discussion paper

Question 1. Do you think a CSP registration or licensing scheme should be implemented in the telecommunications sector and what are the key arguments for and against?

Response: Yes, a registration scheme should be implemented.

Question 2. Are current issues with transparency and enforcement (as raised by stakeholders) substantial enough to warrant the creation of a registration or licensing scheme, and do these outweigh possible impacts (for example, any barriers to market entry and competition impacts)?

Response: Commpete has no additional response to this question.

Question 3. What information or assessments should be required at the point of registration?

Response: The process should be aligned and integrated into existing requirements, for example the IPND Register, leveraging off the existing obligations. A one-time upfront registration process, without regular renewals that continues until the CSP notifies to deregister (if ever), facilitating a low cost and maintaining simplicity of market entry.

Using the example of Canada, as raised in the discussion paper, where it is free to register with the CRTC https://crtc.gc.ca/eng/comm/telecom/registr.htm

Question 4. What other harmful activities could potentially be disrupted through registration?

Response: Commpete has no additional response to this question.

Question 5. Which CSPs should be required to register, and what are the advantages or disadvantages of different approaches?

Response   Commpete suggests that all telecommunications providers should be required to register to ensure that the listing is an accurate reflection of all CSPs operating at all levels in the market.

Question 6. How could a registration scheme best integrate with existing obligations and processes?

Response: A consolidated CSP registration listing can be integrated to provide input into existing obligations, such as the IPND, TIO, CommCom, Comms Alliance, the ACMA, being a single source to minimise duplication of complex regulatory burden for smaller participants in the market.

Question 7. What processes could be used to ensure and maintain a rigorous list of CSPs?

Response: Commpete upholds a simple registration process and the imposition of penalties, such as monetary fines, for non-registration, however, wants to address the proposal raised:

requiring carriers or wholesale CSPs to periodically confirm a CSP's registration in order to provide (or continue to provide) services to them and/or engage with them in the supply of telecommunications services, or only allowing CSPs to exercise their contractual access rights if they are registered.

It should not be incumbent on the wholesale CSP to police the registration, different industry participants have different degrees of capacity to contribute and this may not always be the most effective means of achieving a rigorous list.

Question 8. What factors should be considered before deregistering a CSP, and what alternatives should the ACMA consider?

Response   Commpete suggests that education and an avenue of appeal with monetary penalty rather than deregistering CSP maintains the ultimate benefit for users, upholding the requirements around end users remaining connected. The factors should be consistent with existing processes, more flexible and not waiting on the failure of compliance.

Question 9. How can deregistration be best leveraged to facilitate compliance and enforcement of existing regulatory obligations?

Response: Deregistration and the threat of deregistration has a limiting impact, it exposes the market to a reduction of participants, reducing competition. If the barrier to entry, compliance and re-entry raises for new and small entrants, this will further impact

competition and therefore consumer choice. It may also limit entry of wholesale providers.

Question 10. What transparency and review measures should be implemented?

Response: Similar to existing processes in addressing a breach or non-compliance:

1. CSPs be afforded an early opportunity and appropriate timeframe to reply, issue dependent.

2. An accessible and transparent avenue for review.

3. Consideration for end users maintaining connected services

4. A published live list of CSPs with withdrawn registrations including the reason be maintained alongside the register. Noting some CSPs may self-withdraw from the market.

5. Facility to re-register where de-registration occurs, CSPs should not be permanently excluded from the market.

Question 11. What would be the advantages or disadvantages of establishing a mechanism to remove CSPs with a history of non-compliance without also having a complementary registration scheme?

Response: This would present no difference to existing practices of investigation for breach or non-compliance that exists with for example the ACMA.

The introduction of a published live list of withdrawn CSPs, including the reason, be maintained. This would facilitate educating consumers and businesses on validating providers they do business with.

Conclusion

In conclusion, Commpete considers *an appropriately integrated registration scheme with low barrier to entry into the telecommunications retail market. Including minimal impost and cost for CSPs to register* will better support transparency for the ultimate benefit of end-users.

Commpete is happy to discuss these matters with DITRDCA when convenient.