

## **Commpete's response to the proposed *Security of Critical Infrastructure (Telecommunications Security and Risk Management Program) Rules 2024***

Commpete is an alliance for competition in digital communications representing non-dominant providers. Our members include specialised regional providers, mobile operators, MVNOs, data centre and fibre owners and RSPs servicing the 500+ small telco businesses and consumers all over metropolitan and regional Australia.

Commpete advocates for an open and dynamic telecommunications industry where end consumers benefit from a level playing field, diversity of providers and services and a competitive market.

For over 20 years, Commpete and its members have advocated for telecommunications regulatory policy and legislative reforms that have increased competition and encouraged both challenger and incumbent telecommunication service providers to deliver more to their customers.

We are writing to address several concerns regarding the **Security of Critical Infrastructure (Telecommunications Security and Risk Management Program) Rules 2024 (TSR Rules)**, which we believe may significantly impact our members' businesses.

### **Proposed TSR Rules**

Under these Rules, a relevant critical infrastructure asset is defined as a critical telecommunications asset that is:

- (a) owned or operated by a carrier.

The proposed TSR Rules apply to relevant critical infrastructure assets, as outlined in Section 5. However, we believe that Section 5 is somewhat circular and requires clarification. Specifically, we question what is meant by "operation" in this context. For example, many of Commpete's members are wholesalers who supply telecommunications services to customers through infrastructure they lease or access from larger suppliers. This model has been essential in fostering competition and maintaining a level playing field within the telecommunications industry. However, the use of the term "operate" in Section 5, without any qualifiers such as "control," "access," or "management," makes it unclear when this section would apply to wholesalers.

Furthermore, the definition of a critical telecommunications asset under the **Security of Critical Infrastructure Act 2018** provides little clarity. The term "critical telecommunications asset" includes:

- A telecommunications network that is:
  - Owned or operated by a carrier or a carriage service provider; and
  - Used to supply a carriage service; or
- A facility (as defined by the Telecommunications Act 1997) that is:
  - Owned or operated by a carrier or a carriage service provider; and
  - Used to supply a carriage service.

This definition is overly broad, effectively capturing any operation of a telecommunications network. The term "telecommunications network" is defined as any system or series of systems capable of carrying communications via guided or unguided electromagnetic energy. We suggest amending this definition by adding qualifiers such as broadband services, fixed telephone services, public mobile telecommunications services, and voice-only services.

In wholesale relationships, the supplier of such services may not have the necessary control over the material risks identified in the TSR Rules to meet the requirements outlined in the Act.

### **Enablement Management Services**

Enablement management services are software solutions that allow Mobile Virtual Network Operators (MVNOs) and Carriage Service Providers (CSPs) to manage services like activation, billing, and service management. These services are typically outsourced to facilitate the operations of MVNOs and CSPs, such as supermarket chains offering branded mobile services or other CSPs targeting low-price markets. We request that an exemption be applied to enablement management services, as these services fall outside the scope of carriage service provision and lack the necessary control over material risks.

Additionally, we caution that assigning responsibilities across multiple CSPs in this area could lead to redundant reporting within the sector.

### **Clarification of Ownership**

We also believe that some clarification is needed regarding the term "ownership" within the TSR Rules. Many Commpete members hold carrier licenses, making them automatically subject to Section 5 of the Rules. However, the definition of a "relevant carriage service provider asset" includes qualifiers, which we assume aim to level the playing field for smaller providers, such as Commpete members.

Under the definition, a relevant carriage service provider asset is a critical infrastructure asset owned or operated by a carriage service provider where:

- The asset is used in connection with at least 20,000 active carriage services, including:

- Broadband services;
- Fixed telephone services;
- Public mobile telecommunications services;
- Voice-only services; or
- The responsible entity is aware that the asset is used in connection with services supplied to a Commonwealth entity (other than a body corporate established by a law of the Commonwealth).

However, many suppliers may be classified as carriers because they hold carrier licenses but may not meet the threshold of supplying 20,000 active services. We propose that the definition of "carrier" be limited to those who meet this minimum requirement.

### **Key Recommended Changes**

Commpete respectfully requests the Department consider the following key changes:

1. **Clarify the term "operation"** in Section 5 of the Rules.
2. **Limit the definition of telecommunications network** to include only services such as broadband, fixed telephone, public mobile telecommunications, and voice-only services.
3. **Exempt enablement management services** from the requirements of the TSR Rules.
4. **Apply the limitations** in the definition of "relevant carriage service provider asset" to the definition of "carrier."

We thank the Department for the opportunity to provide these comments and look forward to continuing our engagement on the matters raised in this response. Should you have any questions, please do not hesitate to contact us.