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ACCC Mobile Roaming Inquiry
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ACCAN welcomes the opportunity to comment on the ACCC Mobile Roaming draft decision.

Regional, rural and remote consumers and small businesses priorities are additional mobile coverage in areas where they live, work and travel, and upgrades to existing mobile networks to improve capacity and reduce congestion. ACCAN is not convinced that declaration of mobile roaming is the best way to deliver these outcomes.

Consultation with regional, rural and remote members last year found that while consumers had differing views, the majority were concerned at the potential neutral or negative impact of roaming, as outlined in our earlier submission. We are therefore supportive of the approach taken by the ACCC.

However, we believe other measures that aim to stimulate investment, and encourage more competition and choice in the mobile market for regional Australians should be examined further. Consequently, our comments below focus on the issues for further consideration identified in the Draft Decision.

Increasing transparency about network quality, expansions and improvements

- **Mobile Virtual Network Operators (MVNOs)**

ACCAN believes there would be merit in the ACCC monitoring MVNO coverage and quality of service claims relative to the Mobile Network Operator (MNO). There should also be simpler comparison tools that let consumers compare MVNO coverage with the MNO coverage on the same map (this is not currently available).¹ This would allow consumers to make a more informed choice about whether an MVNO service will meet their coverage needs.

As an example, this could promote the use of Boost as a viable lower cost alternative for consumers within the Telstra only footprint. It would allow consumers to better assess the benefit of using Boost, and the different offering compared to Telstra mobile (due to Boost not having access to the 4GX footprint).^{2 3}

- **Improved MNO coverage maps**

Coverage maps published by the mobile networks can lead consumers to believing that coverage is better than actually experienced. Independent testing by organisations such as the Digital Economy Group⁴ has found that coverage maps have approximately 80% accuracy compared to on the ground

¹ See for example [ALDI Mobile Coverage map \(Telstra MVNO\)](#).

² <http://boost.com.au/coverage-map/> (checked 9 June 2017)

³ <https://www.telstra.com.au/coverage-networks/our-coverage> (checked 9 June 2017)

⁴ <http://www.digitaleconomygroup.com.au/overview.html>

experience. While MNO websites include disclaimers that coverage maps are approximate, consumers are reliant on this data and personal recommendations to guide their choice where coverage is a deciding factor. The technology is available to improve the accuracy of coverage maps. This should be used by the MNOs to upgrade mapping data, and allow consumers to access more accurate information about coverage and network upgrades.

- **Network investment plans**

While the mobile networks have made broad announcements about their intentions for mobile network investment⁵, there is little information about the geographic allocation of these improvements due to commercial sensitivities. This approach is problematic for communities. Greater disclosure about MNO forward plans is of great value because it would allow communities to better target resources to areas where need is greatest. For example, the Central West NSW Regional Development Authority has pointed out that projected rollout information would allow communities to focus resources more effectively on developing business plans and incentives for areas that are outside the proposed commercial footprint.

- **Coverage and network improvement reporting obligations**

The ACCC's Draft Decision notes the lack of comprehensive information about current network coverage and future network rollout and upgrade plans (at page 77). ACCAN is supportive of the ACCC using its record keeping powers to require that MNOs provide this information on an annual basis so that a reliable picture of the current mobile footprint can be obtained. This would also allow for ready identification of future network improvements and expansion, and should include sufficient detail to identify specific locations of new coverage. The current situation of manually logging onto MNO public websites to see if coverage has expanded is an unacceptable approach. As public MNO websites do not show historical coverage, having MNOs provide updated coverage data on an incremental basis would ensure that government can evaluate the effectiveness of government funding in expanding coverage, separate from MNO's private investments.

- **Data sharing with Australian Communications and Media Authority (ACMA) and the Department of Communications (DoCA)**

ACCAN recommends that the ACCC share with the DoCA and the ACMA all the mobile coverage data that it may have received from MNOs as part of the roaming inquiry process. Government has not collected any coverage data from MNOs since 2011.⁶ This data will be immensely useful to the DoCA's Bureau of Communications Research and the ACMA when advising government about future policy approaches in this area. The data need not be made available publically.

Co-location, facilities access and transmission

ACCAN believes there is scope to adjust existing regulatory settings around co-location, facilities access and transmission services to improve the likelihood of competition in mobile networks in non-metro areas. While the suggested changes may only make a small difference, ACCAN believes that consumers in regional Australia would benefit from incremental increases in competition.

⁵ <https://www.businessinsider.com.au/telstra-is-pouring-an-extra-3-billion-into-its-network-after-painful-outages-2016-8>

⁶ [ACMA, 'Communications Report 2010-11' at p. 38.](#)

- **Co-location and facilities access**

The Facilities Access Code and the *Telecommunications Act* provide a low level of regulation for access to transmission towers, tower sites and underground facilities. As part of the 2013 Code review, all three MNOs agreed that the Code generally facilitated efficient commercial outcomes between carriers. Their responses to the current Inquiry are consistent with this approach. However, it is revealing that they all agree that the regime could be improved.

As noted in our submission to the initial ACCC Declaration Inquiry⁷, there is little public information on the extent of co-location of infrastructure overall, and no publically available breakdown by regional, rural, remote and metropolitan areas. According to a Vodafone-commissioned study, co-location of mobile facilities is not common in regional areas where Telstra owns the vast majority of mobile base stations.⁸ We are also aware that Optus and Vodafone have a number of co-location agreements. Due to the lack of transparency of the current situation, it is impossible for ACCAN to assess the effectiveness of the regime.

However, anecdotally ACCAN has been told of cases where co-location has been significantly delayed due to the inability of MNOs to reach agreement on terms and conditions of access. One such example is in the Mooloolaba area on the Sunshine Coast, where we understand two MNOs have been in dispute for approximately 5 years, a delay which is clearly not in the interests of the community.

There is strong support in regional Australia for greater co-location of network infrastructure as a viable means of improving choice of provider and competition. Communities want improved mobile coverage, but at the same time there is concern for environmental considerations. They do not want a plethora of duplicating towers scattered across the countryside. Additionally, there is support for the location of base stations on existing local infrastructure to reduce costs and incentivize investment in expanding network coverage.

ACCAN believes that greater transparency and oversight is needed about the current extent of co-location, and the effectiveness of the Facilities Access Code in the mobile market in regional Australia. We are strongly supportive of the ACCC reviewing the facilities access regime, and using its record keeping powers if necessary to obtain information about the extent of co-location in regional Australia in order to assess and monitor the extent to which infrastructure is being used efficiently in the mobile market.

⁷ <http://accan.org.au/our-work/submissions/1339-accq-inquiry-into-domestic-mobile-roaming>

⁸ [The Centre for International Economics, 'Australia's telecommunications market structure – the price premium paid by consumers - prepared for Vodafone Hutchison Australia', June 2015](#), at p. 12.

- **Domestic Transmission Capacity Service (DTCS)**

One of the current barriers to co-location is access to backhaul. If a MNO does not have ready access to backhaul in an area, it will be less incentivized to invest due to the additional costs involved. Incidents of this nature have been reported to ACCAN by the Central West NSW Regional Development Authority. As the ACCC noted in 2015, backhaul is likely to be the most significant constraint to smaller incumbent MNOs competing in regional areas.⁹

The recent reduction in DTCS pricing is likely to extend coverage by the other providers; a representative from Vodafone commented that the reduction in prices meant that it would now be able to bid on MBSP sites that would have otherwise been “previously unattainable”.¹⁰ However, it will take several years to see the pricing effects in the marketplace.

It is also important to note that the DTCS does not apply to all backhaul transmission. ACCAN is aware that Telstra has developed a specific product to offer other MNOs for backhaul from MBSP Round 1 sites to the local exchange. Given that prices for this new fibre is not regulated, Telstra is able to charge whatever amount it wishes, particularly in areas where it is the only backhaul provider. The Guidelines for Round 2 have been updated to say that MBSP backhaul must be provided at a price that is “more favourable than the regulated prices set under the ACCC Domestic Transmission Capacity Service Final Access Determination (DTCS FAD)”.¹¹ One suggestion may be for DoCA to update the guidelines to say that the discount must be applied on a permanent basis and not as a once-off. There may also be scope for the ACCC to take other action, for example through ongoing monitoring of MBSP tower-to-exchange fibre pricing. Given that backhaul is the largest ongoing cost for a tower, it is important that the market operates fairly.

It is also useful to note other limitations in the scope of the DTCS in ensuring access to all potential transmission networks. For example ACCAN is aware that Optus leverages its ownership of core satellite assets to provide satellite backhaul, whereas Telstra only uses satellite backhaul in emergency situations.¹² Other MNOs may not have similar access to other transmission networks. ACCAN is also aware of issues in Round 1 of MBSP that affected the ability of an MNO to co-locate. Specifically, it is important that technical requirements for co-location are based on the needs of all three MNOs, and cannot be unreasonably confined by the lead MNO. It is critical that the DoCA monitors these situations to ensure that MNOs are not intentionally undermining the ability for another MNO to co-locate on government subsidised tower sites.

- **Access fee barriers to co-location**

In addition to upfront costs, a co-locating MNO will face ongoing access fees which are not regulated.¹³ Telstra owns most of the towers in non-metro areas and does not provide much opportunity for co-location.¹⁴ Because of its monopoly status in many mobile markets, Telstra can set the price for co-location. ACCAN suggests that the ACCC seek information from all three MNOs

⁹ ACCC, ‘Competition limits advice for 1800 MHz spectrum in regional areas’, May 2015 at para [3.4.2]

¹⁰ Simon Thomsen, ‘The ACCC’s just opened the door for mobile from Optus and Vodafone in regional Australia’ *Business Insider Australia*, 21 April 2016.

¹¹ Department of Communications and the Arts, *Mobile Black Spot Programme—round 2 guidelines, version 1.1* at p. 18 at para [5.4.4].

¹² Telstra, Submission to the Productivity Commission Issues Paper on Natural Disaster Funding Arrangements, 6 June 2014, at p.8

¹³ Optus, *Submission in response to Mobile Coverage Programme Discussion Paper, February 2014* at p. 9 at para [2.17].

¹⁴ The Centre for International Economics, ‘Australia’s telecommunications market structure - the price premium paid by consumers’, prepared for Vodafone Hutchinson Australia, June 2013 at page 12.

about the rates offered for regional co-location and the reasons for refusal to co-locate. This information should be collected on an ongoing basis and would be useful in determining if an MNO was acting anti-competitively in setting rates or refusing access to a site.

- **Co-building**

Many of the difficulties with co-location could potentially be avoided if MNOs agree to co-build sites. ACCAN understands that there is no regulation requiring MNOs to engage in good faith negotiations to achieve co-building. Under an Industry Code registered with ACMA, it is suggested that MNOs consult one another when proposing to build a new mobile facility.¹⁵ MNOs do this on a periodic basis through the Mobile Carriers Forum.¹⁶ Co-building should be promoted, especially for sites funded through government co-investment, to allow a greater return on government investment as MNOs would share the build costs.

Mobile Black Spots Program and the need for ongoing public subsidies

In particular, ACCAN considers there is a strong argument for regulatory oversight of access to towers for government funded mobile sites. There is a strong public interest in MNOs being prevented from leveraging their ownership of tower sites to charge unfair ongoing access fees in cases where the site has been substantially funded by government investment. On the other hand, the increased requirement to share the publically funded infrastructure may affect decisions of MNOs to extend coverage. In these circumstances, increased public subsidies may be required to ensure that the investment is still attractive to MNOs.

In areas where there is strong consumer demand and public safety reason for expanding coverage, but no commercial incentive to invest, the full construction and maintenance costs of base stations may need to be publically funded. In such circumstances, access should be available for all MNOs to ensure public infrastructure is used as efficiently as possible, and maximum benefit delivered to the community.¹⁷

- **Ongoing programs to support mobile network expansion**

The ACCC's Draft Decision notes that Telstra is unlikely to expand its mobile footprint without co-investments programs and public subsidies (at p. 47), but it is likely to invest in improving its network within its current footprint. ACCAN's discussions with Telstra support this conclusion.

Without an ongoing commitment by governments to programs such as the Mobile Black Spots Program, there is likely to be little significant expansion of the mobile footprint in regional Australia. One of the key policy proposals of the Regional, Rural and Remote Communications Coalition¹⁸, of which ACCAN is a member, is for an ongoing public funding commitment for mobile network expansion in rural and regional Australia. This should prioritise community identified areas and promote competition to the maximum extent possible.

¹⁵ Clause 3.1.2(e) in [Communications Alliance, 'Industry Code C564:2011 Mobile Phone Base Station Deployment', December 2011](#), at page 12.

¹⁶ [AMTA, Submission to the Regional Telecommunications Infrastructure Review Committee Issues Paper](#), at p.9.

¹⁷ https://accan.org.au/files/Position_Statements/RRRCC%20goals%20document%20-%20Canberra%20delegation%20-%20web%20version.pdf

¹⁸ <https://www.farmers.org.au/content/nff/en/news-updates/nff-news/data-drought-coalition-launch-301116.html>

ACCAN considers that the ACCC should have a role in approving guidelines for future government investment programs in mobile coverage (including any future rounds of the MBSP). The ACCC, as the competition regulator, holds the institutional knowledge and expertise to determine the appropriate framework to reduce anti-competitive outcomes.

Competition issues and spectrum management and allocation

ACCAN is supportive of a greater role for the ACCC in ensuring competition and efficiency in the spectrum regulatory regime, to ensure that the interests of end users are taken into account in spectrum management decisions.

We note that this is consistent with the recommendations of the recent Commonwealth Government review of the ACMA¹⁹ of greater cooperation between the ACMA and ACCC and that a principle be included in the ACMA Act to ensure ACMA decisions take account of competition, innovation and efficient investment.

Yours sincerely



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¹⁹ <https://www.communications.gov.au/documents/review-australian-communications-and-media-authority-final-report>