



Our ref: 59184

Contact officer: Chris Xie

Contact phone: [REDACTED]

8 November 2023

Victoria Robertson
Assistant Secretary for Digital Inclusion and Deployment
Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Dear Ms Robertson

Re: Consultation on proposed changes to provide better mobile connectivity in new developments

The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to provide feedback at staff level on the proposed amendments to the Telecommunications in New Developments (TIND) Policy. The proposed amendments seek to improve the provision of mobile infrastructure in new developments. There are also some proposed changes relating to fixed line infrastructure.

Mobile service is an essential service. Having reliable mobile coverage where people live, work and travel is important for the conduct of normally daily activities, accessing services and during emergencies. We support the objective of the proposed amendments to the TIND Policy in setting out government expectations for developers of new estates regarding the provision of mobile connectivity in these areas. The expectations specified in the proposed TIND policy include the consideration of mobile connectivity at a similar level of importance as other utilities, early engaging with carriers on providing mobile connectivity, identify site locations appropriate for mobile infrastructure, and reasonable efforts to reach agreements with carriers.¹

As you may be aware, the ACCC conducted a Regional Mobile Infrastructure Inquiry in 2022-23 pursuant to a direction from the former Minister for Communications.² The inquiry examined, amongst other things, the costs of providing towers and access to towers and as well as factors relevant to industry participants in deciding to provide greater mobile coverage. The ACCC provided its report for the inquiry to the Minister for Communications on 30 June 2023 and recently published the report.³

We consider that parts of the report may provide useful considerations in formulating the TIND Policy relating to mobile connectivity. In particular, we note the following:

- As recognised in the Proposed TIND Policy,⁴ sharing of infrastructure reduces the costs of deployment for carriers. In recent years, there have been significant changes in the tower

¹ [Proposed Telecommunications in New Development Policy](#), p. 14.

² See [Telecommunications \(ACCC Inquiry into Access to Regional Towers and Associated Infrastructure\) Direction 2022](#)

³ ACCC, [Regional mobile infrastructure inquiry: Final report](#), July 2023.

⁴ [Proposed Telecommunications in New Development Policy](#), p. 15.

industry, with the mobile carriers divesting or transferring their tower assets to specialist tower companies (aka mobile network infrastructure providers). Mobile carriers typically co-locate on infrastructure operated by the mobile network infrastructure providers (i.e. passive infrastructure sharing). Mobile carriers could also actively share infrastructure through commercial agreements or via infrastructure provided by a neutral host provider. We consider there is benefit in encouraging a developer to engage with a range of providers, including carriers, mobile network infrastructure providers and neutral host providers, to maximise the potential options that may be available for providing mobile connectivity in a new estate.

- Passive or active sharing of infrastructure would also promote the competitive provision of mobile services in the new estate area by allowing at least two carriers to provide coverage. To enable the residents of the new estate to have choice of providers, we consider there should be an expectation that developers make reasonable effort to facilitate the provision of mobile coverage by at least two carriers.
- The Proposed TIND Policy acknowledges that there may be matters outside developers' control which may affect the provision of mobile connectivity in new estates, such as delays in the carrier getting planning and development approval for the infrastructure. While not specifically related to the proposed amendments to the TIND Policy, we consider broader considerations may need to be given to the effectiveness of planning and development rules to support the deployment of mobile infrastructure in new estates. The ACCC's Regional Mobile Infrastructure Inquiry found that deployment of telecommunications infrastructure could be significantly affected by differing planning and approval rules across varying level of government, some of which can be lengthy and costly. Industry stakeholders advocate for a range of reforms to improve consistency of regulations to better facilitate infrastructure deployment.

We also note proposed amendments that would allow NBN Co to amortise the costs of backhaul over several developments in an area, so that it does not have to place all the costs on the first developer. It is envisaged that NBN Co could potentially charge the initial development less than the total cost of backhaul, and then charge each subsequent development its expected proportional share of the cost of previously deployed backhaul infrastructure.⁵ This means that other than an overarching constraint on the total costs that NBN Co could recover across the developments, NBN Co has the flexibility to determine how it wants to recover the costs from each development. While we consider that this proposal is likely to enhance efficiency, we also consider there to be a potential risk to competition and efficiency depending on how NBN Co determines the charges for each development. For example, it is likely to be problematic if NBN Co regularly overestimates demand across adjoining developments. We suggest that it may be appropriate to assess how NBN Co's charging practice has transpired (should this proposal be adopted) during the next review of the TIND Policy.

Please feel free to contact Chris Xie on 02 9102 4082 or by email to chris.xie@accc.gov.au if you wish to discuss any of our comments.

Yours sincerely,



Tara Morice
General Manager (a/g)
Mobiles, Transmission and Consumer

⁵ [Proposed Telecommunications in New Development Policy](#), p. 10.