

Mobile Coverage Programme Discussion Paper

Submission Cover Sheet

Submission Information

This cover sheet should be attached to submissions made to the Department of Communications in relation to the Mobile Coverage Programme Discussion Paper.

Contact Details

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Date: 28 February 2014

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If the submission contains personal information of any third party individual, indicate on this Submission Cover Sheet if that third party individual has not consented to the publication of his or her personal information:

Submission Instructions

Submissions are to be made by **5:00pm (AEST) Friday 28 February 2014**.

Where possible, submissions should be lodged electronically, preferably in Microsoft Word or other text-based formats via the email address mobilecoverage@communications.gov.au

Alternatively, submissions can be sent to the postal address below (to arrive by the due date):

The Manager
Mobile Coverage Programme
Department of Communications
GPO Box 2154
CANBERRA ACT 2615

All submissions lodged will be acknowledged by the Department of Communications by email (or by letter if no email is provided). Respondents lodging a submission who do not receive acknowledgement of their submission should contact the Department. Submissions which are not acknowledged by the Department as being received may not be considered. Respondents should be aware that emails greater than 10Mb may not be successfully delivered.



Australian
Competition &
Consumer
Commission

ACCC submission to the Department of Communications'
Mobile Coverage Programme discussion paper

28 February 2014

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The Australian Competition and Consumer Commission (ACCC) welcomes the opportunity to make a submission on the possible implementation methods for delivering the Government's Mobile Coverage Programme (the Programme) as outlined in the Department of Communications' Discussion Paper (the discussion paper).

The ACCC recognises that mobile coverage is a significant concern for many consumers and businesses in regional, rural and remote Australia. One of the main reasons coverage in these areas is limited is that the cost of extending a mobile network to regional areas is high, while the number of potential subscribers is often low. This means that often there is little commercial incentive for mobile network operators (MNOs) to invest in extending their networks in regional, rural and remote areas. The ACCC therefore considers that it is unlikely competitive forces alone will be sufficient to compel MNOs to extend their mobile networks to such areas, and that other action is required to address regional coverage issues.

The ACCC supports the Government's proposal to improve regional mobile coverage and competition issues under the Programme. The ACCC considers the options outlined for both the Mobile Expansion, and Mobile Blackspots projects have the potential to increase coverage and competition in regional Australia by encouraging MNOs to build and share infrastructure in identified areas.

We have set out below some additional comments in relation to the proposals.

Competition benefits

While for much of regional Australia, improving coverage will be a priority, the ACCC notes that improved competition for mobile services will also deliver benefits. For example, improved competition has the potential to improve the quality and range of services offered in regional areas. As a result, the ACCC considers that the measures outlined in the discussion paper, aimed at ensuring competitive outcomes are an important aspect of the Programme.

Open access and capacity and co-location requirements

The ACCC supports the open access, capacity and co-location requirements that the discussion paper proposes will apply to new infrastructure built under the Programme (for both the Mobile Expansion and Mobile Blackspots projects). These requirements will help to promote competition for mobile services in regional Australia and ensure that a single MNO will not gain a significant competitive advantage in regional mobile markets if they successfully bid for funding under the Programme. Equally, it should increase competition for mobile services in regional areas and deliver better coverage more quickly, as all three MNOs will be able to offer mobile services using the infrastructure.

Delivery options for the Mobile Expansion Project

The Discussion Paper proposes three delivery options for improving mobile coverage under the Mobile Expansion Project. The ACCC prefers the second and third delivery options, which have the advantages of delivering better coverage and promoting competition.

Under the first option, it is proposed that a single MNO will receive the entire \$80 million in government funding and will build all base stations. This means that the locations of all base stations built will be determined by the successful MNO. While the criteria set out by the Department for base station locations will influence the bid, we would expect that each bidder will make a proposal which best suits their network design, spectrum holdings and commercial interests. Therefore, this option has the potential to give the MNO that wins the tender a competitive advantage in regional, rural and remote areas.

The second and third options are less likely to benefit a single MNO to the same extent and would provide more competitive outcomes. Under the second option the funding may be given to a number of different MNOs, meaning that a single MNO will not determine the location of all new infrastructure. The ACCC acknowledges the Department's observation that it would be necessary for other MNOs to negotiate terms and conditions of access which may delay the competition benefits of this option. However, we consider that in the long term, this option is likely to deliver outcomes that would benefit end-users.

Under the third option a 'network infrastructure provider' would determine where base stations would be located.¹ As with option two, the ACCC considers that this delivery option is likely to deliver improved coverage and competitive tension to the market by providing commercial incentives for the infrastructure provider to have as many MNOs operating on the infrastructure as can be reasonably accommodated.

Dispute resolution procedures

In the Discussion Paper, the Department proposes dispute resolution procedures that could apply to disputes over access to new infrastructure built under the Programme. One such proposal is that the ACCC be given powers to resolve disputes in relation to access pricing of this infrastructure.

The ACCC currently has an arbitration role under Part 3, Schedule 1 to the *Telecommunications Act 1997* for disputes arising in relation to access to facilities. The framework for facilities access disputes encourages the parties to resolve matters through commercial negotiation before escalating a dispute to arbitration.

In the ACCC's experience this framework works well. It encourages parties to reach agreement through mediation or negotiation, before a dispute is escalated, but provides a 'safety net' for parties where agreement cannot be reached. The ACCC would support a similar model being considered for disputes about pricing of access under the proposed open access and co-location requirements. Where commercial negotiation of a dispute is unable to resolve an issue, access to a low cost dispute resolution process is necessary to promote competition.

Use of NBN Co infrastructure

The ACCC considers that the NBN Co is well placed to support the expansion of mobile coverage in regional, rural and remote areas. As the NBN is rolled out in regional Australia, there will be opportunities to ensure that NBN infrastructure (such as fixed wireless towers and backhaul links) is

¹ The ACCC has assumed that network infrastructure providers would be independent of any MNO that bids under the Program.

placed in areas which could improve mobile coverage as well as supply fixed broadband service. Giving MNOs access to such facilities will lead to efficiency gains, by preventing the unnecessary duplication of infrastructure, and will improve coverage and competition for mobile services in regional Australia. We note that for this to be effective, the ACCC considers that NBN's wholesale only and open access obligations would need to apply to any services offered to MNOs.

The ACCC acknowledges that the provision of adequate backhaul at reasonable prices is an essential component of improving mobile coverage in regional and remote areas. The ACCC supports the proposals set out in the Discussion Paper for new fibre backhaul in "greenfield" base stations to be able to meet the needs of multiple MNOs providing mobile services and for pricing options to be considered to ensure backhaul can be obtained on reasonable terms in all areas covered by the Programme.

Conclusion

The ACCC supports the proposed Mobile Coverage Programme which will help to address mobile coverage and to promote competition in some areas of regional, rural and remote Australia. It also considers that the use of NBN Co infrastructure to improve mobile services in this area has the potential to deliver significant long term benefits to consumers and businesses.