



17 March 2020

Ms Eve Osiowy
Manager, Numbers Section
Consumer, Consent and Numbers Branch
Australian Communications and Media Authority
PO Box 13112
Law Courts Melbourne Victoria 8010

Your ref: ACMA2019/1362-1

By email to numbering@acma.gov.au

Dear Ms. Osiowy,

**Review of the Telecommunications (Provision or Pre-Selection) Determination 2015
(the Determination) - Commercial-in-confidence**

Thank you for the opportunity to present additional information in the ACMA's review of the Determination. The information requested by the ACMA is provided below and should be read in conjunction with the information provided to the ACMA in our letter dated 30 January 2020.

As this letter contains commercial information, we request the ACMA not share it without first consulting and seeking permission from Optus.

1. Is the pre-selection Determination still fit for purpose? (please provide succinct reasons)

Yes, Optus considers the Determination continues to promote and facilitate consumer choice in the selection of their preferred supplier for long distance, international and mobile calls. The Determination therefore remains relevant and useful for today's telecommunications regulatory framework and so we see no immediate need for the ACMA to take any early action to vary or revoke it.

Currently, preselection remains an essential input that enables Optus to compete effectively in the corporate and large enterprise market by offering competitively priced services to customers. For example, Optus offers pre-selection to its customers via the Wholesale Line Rental (WLR) service. WLR is a declared service and allows Optus to offer business customers the ability to pre-select their calls to Optus by setting up switchless long distance by setting up pre-selected services in the local exchange of the access service deliverer i.e. Telstra or allowing the customer to use an override code programmed into their own PABX.

Optus also uses preselection to offer corporate customers a national service which is not limited by Optus' DSLAM footprint. This enables Optus to offer these customers a national 'whole of business' service irrespective of the location of their sites and the ease of dealing with a single supplier for their services. Without the Determination, CSPs such as Optus would not be able to offer competitive services to customers in this market. The loss of competitive pressure will result in lack of choice and therefore costs for these customers.

2. What is the current and likely future demand for pre-selection from end-users?

As previously advised to the ACMA, the number of standard telephone services utilising pre-selection remain substantial albeit in decline as the NBN migration continues. We refer to the data supplied to the ACMA previously which shows the number of SIOs that Optus provides pre-selected services to for national long-distance, international or mobile calls, Wholesale Line Rental (WLR) and Integrated Services Digital Network (ISDN) connections at the end of each requested financial year:

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**includes Services in Operation (SIO) Basic Rate and SIO Primary Rate*

3. Is the pre-selection Determination still required to support the competitive delivery of long distance, international and fixed to mobile calls? (please provide succinct details).

Yes, recognising the scope and effect of the Determination will progressively diminish over the next two or more years as consumers migrate to the NBN from legacy ADSL services. Accordingly, we believe the Determination should be left in place. This will allow for further consideration at the expiry of the ACCCs Fixed Service Final Access Determination on Wholesale Line Rental which is 30 June 2024. In addition, the ACCC should have oversight on any future proposed change to both the WLR Declaration and the pre-selection Determination as these two services are complementary and will continue to be essential to allow CSPs other than Telstra to offer competitive fixed line voice services in NBN Fixed Wireless Areas and NBN Satellite Areas even after the migration to NBN is complete.

There is a risk that if the Determination is revoked, this could damage competition and result in Telstra being the only provider able to provide fixed line voice services in those areas. It is important to note that NBN Co claims that its Fixed Wireless and Satellite networks are not provisioned to provide voice service, and as such, the ACMA cannot rely on these networks for the continual supply of voice services. To prematurely terminate these services before the end of the NBN rollout would be disruptive to customers who utilise such arrangements and would eliminate their ability to access telecommunication services on a competitive basis.

4. Should the ACMA vary, revoke, or leave the Determination in place at this time and why? Questions that may inform submissions on this point include:

a. What would happen if the ACMA revoked the Determination?

Revoking the Determination would result in the removal of consumer choice in the selection of a retail service provider for the supply of international, long distance and mobile calls. This would remove the competitive constraint on the main access service

deliverer i.e. Telstra, removing their incentive to offer competitive prices and services to customers.

b. Would pre-selection continue to be provided by carriers and carriage service providers to end-users?

No, we consider Telstra would not have an incentive to continue to provide preselection if the Determination was revoked.

For example, this would be relevant for consumers located in areas serviced by the NBN where they can remain on their copper services and still be free to select their preferred provider. As noted by the ACCC in its final decision on the *Fixed line telecommunications services declaration inquiry* 'While the NBN will be available to all premises, the copper network is not required to be 'switched off' in NBN fixed wireless and satellite areas. To the extent users choose to stay with their copper based services in these areas, this may have the effect of slowing migration to the NBN.'¹ In this scenario, the continuing availability of preselection for these customers will continue to support consumer choice and competition.

c. What would the likely impact of revocation be on end-users (positive, negative or neutral) and/or to any other arrangements?

Revocation of the Determination would have negative impacts on consumers for the reasons provided above.

d. If revoked, should it occur now or a future time? (e.g. after transition to the NBN)

Apart from the sunset provisions requiring the ACMA to formally consider varying, revoking or retaining the Determination, Optus is not aware of any pressures or necessity to change the current pro-consumer preselection arrangements. Preselection remains an important element of the current regulatory arrangements.

Over time, as the NBN rollout is completed, and as fewer services are subject to preselection, it would be appropriate to again review the applicability and consumer benefits of preselection. It is difficult to pinpoint an exact date for the review as consumers may take up the full 18 months period after their premises have been designated as 'ready for service'.

e. What are the costs of complying with the Determination?

Optus faces no material costs associated with complying with the Determination.

f. Are there likely to be additional costs or cost savings if the Determination is revoked?

If the Determination is revoked, there will likely be additional costs and a poor experience for Optus' corporate customers as described above.

¹ [ACCC Fixed line Telecommunications services declaration inquiry Final decision](#) 26 November 2018 page 12

5. Are there any other factors the ACMA should consider when reviewing the Determination?

We consider the ACMA should make the Determination now and allow it to sunset in the standard ten year time period unless some new driver emerges out of the ACCC processes (described in our response to question 3 above) which suggests there is an imperative for the Determination to be revisited. We would be please to participate in any future discussions.

Yours sincerely,



Gary Smith
Head of Regulatory Compliance