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Applying rollout obligations to spectrum licences could further entrench asymmetry in downstream markets

38. Rollout obligations would also significantly depart from the long-standing policy intent and regulatory design features of spectrum licensing, which broadly favour that they be technology neutral and tradeable – features that are intended to remove barriers to spectrum being put to its most economically efficient ends. In other jurisdictions, spectrum licences sometimes specify what the licence may be used for, or a rollout obligation has been included from initial allocation, meaning that across a band, licences are often used in the similar manner between licensees. However, in Australia, due to licence flexibility and other factors, substantial differences between how licensees each use and value the spectrum have emerged:

- > Licensees may use the same bands (or combinations of bands) in different ways (e.g. Licensee A uses 3.4 GHz and 700 MHz for 5G, while Licensee B and C use 700 MHz for LTE/4G and other bands for 5G).
- > Holdings are not evenly distributed between licensees, which has influenced how licensees have made use of different bands, but also how they have competed for spectrum in other bands (e.g. Optus holds 2x10 MHz of 700 MHz spectrum, while Telstra holds 2x20 MHz).
- > The extent of each licensee's network in general, but also in each band is substantively different. In general, Telstra has the most extensive network in regional and rural Australia, with Optus second, and TPG third.

39. As a result, the relative compliance costs, if all required to meet the same coverage obligation, will differ significantly between licensees and bands, preventing a 'one size fits all approach' to the design of any conditions imposed through licences. For example, specifying that a licensee must provide LTE coverage to specified areas in the 700 MHz band across all 700 MHz licences would result in uneven compliance costs between licensees and risk further entrenching existing imbalances within the market. Alternatively, applying broad conditions to supply an LTE service in certain areas across all licences may prevent a licensee's use of the licence for other purposes, such as 5G,

or require its use even when unnecessary, by effectively requiring the licence be used to supply an LTE service.⁹

40. Rollout obligations would therefore likely need to be bespoke to specific licences and licensees, based on their individual circumstances. A consequence of bespoke licence conditions is that they significantly affect the tradability and value of different licences across different bands, and potentially limit the licensee's ability to refarm spectrum under the licence (i.e. optimise how the spectrum is used efficiently).
41. However, another issue with this approach is that in applying rollout obligations to each operator through their licences could potentially result in a requirement being imposed on each operator to independently build and maintain infrastructure in regional and remote areas. This is likely not the most economically efficient outcome in many areas, as it could result in an overbuild of network being deployed and ongoing costs. While it may be possible for multiple operators to share the same equipment, and in effect, fulfil a deployment requirement in that manner, there may be other regulatory barriers limiting this. We would note that in recent years, the MNOs have sold off their tower infrastructure, which has resulted in fragmentation in ownership arrangements of infrastructure across Australia. This could create distortions in investment and changed incentives if licensees are obligated to deploy in a particular area, but do not have control over the necessary infrastructure to achieve the obligation.

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