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30 July 2018

Review of national roaming

Thank you for the opportunity to submit on the Commission's preliminary view that national roaming (NR) should remain as a specified service:

1. We agree that NR should remain as a specified service and a Sch 3 investigation is not necessary.
2. 2degrees' major challenges in getting a satisfactory roaming agreement, and inability to do so, are well known. A key reason for such challenges is the extended time line leading up to getting a determination for regulated NR, meaning that, even in the status quo were NR is a specified service, the regulatory construct is not a strong backstop to obtaining commercial roaming on reasonable terms. The time to get to regulation, and therefore to be able to realistically get reasonable roaming, is lengthy. Of course we would prefer to negotiation reasonable roaming terms, but there are major challenges.
3. As the review paper identifies, 5G and other industry developments provide an opportunity for greater mobile competition from a 4th (or more) new entrant, but having roaming from a current MNO is critical.
4. All three MNOs (including, now, 2degrees, as it is a current MNO) all have strong incentives to resist and delay the entry of a new MNO. Contrary to what the MNOs submit in other places, and may submit here, there is market failure in mobile: see for example the summary in the [Chorus submission](#) on MBIE's 5G review.¹
5. The weak competition in the MVNO market is a strong indicator of this, with few MVNOs, all with small customers numbers due to poor price and non-price terms.
6. This reflects international experience such as that of the European regulators refusing 4 to 3 MNO mergers, due to the market failure that causes. That is so, unless, in at least one instance in the EU, there is a strong 4th player set up as part of the regulatory approval arrangements, by way of provision for a strong MVNO on viable price and non-price terms, thereby having 4 strong competitors: 3 MNOs and a strong MVNO). This is robust recognition of market failure where there

¹ <https://www.rsm.govt.nz/projects-auctions/current-projects/preparing-for-5g-in-new-zealand/submissions-received-other/241.1%20-%20Chorus.pdf> at Para 31

are only 3 existing MNOs, and is reflected in New Zealand's poor MVNO market and the difficulties faced by those seeking roaming.

7. While the review paper talks of existing MNOs having conflicting incentives, their incentives to keep a 4th MNO out of the market, or to hamper its competitive impact, is substantially greater than incentives to attract wholesale customers. All 3 MNOs have similar incentives including newer entry, 2degrees, to keep new MNO entrants out. This is illustrated by the poor MVNO market: no MNO has broken ranks and encouraged MVNO services on viable price and non-price terms, implying that the countervailing incentives to keep strong MVNOs out predominate over incentives to wholesale.
8. We welcome the preliminary view not to remove national roaming regulation.