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Commerce Commission
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For: Andrew Harrison

SKY SUBMISSION ON THE MOBILE MARKET STUDY'S PRELIMINARY FINDINGS

- 1 Sky welcomes the opportunity to submit on the Mobile Market Study's Preliminary Findings. The Study is important and valuable given how vital a dynamic mobile market is to consumers and the wider economy.
- 2 As an overall response, Sky:
 - 2.1 agrees with PF8, PF10 and PF20(a) that effective spectrum allocation lies at the heart of a competitive mobile market; and
 - 2.2 otherwise favours market driven outcomes over regulation wherever possible.
- 3 Below we offer some brief remarks on our own business and Sky's reaction to the Preliminary Findings.
- 4 We would be happy to meet with officials at any time to share our experience and **[SKYCI**]

CONTEXT

- 5 SKY is New Zealand's leading Pay TV provider. We operate in a highly competitive environment disrupted by emerging technology.
- 6 In keeping with international trends, New Zealanders are consuming increasing amounts of popular entertainment content and live sport through OTT services like Netflix and Sky's Neon and Fan Pass platforms.
- 7 Moreover, content consumption has extended beyond the home and gone mobile. As the Commission found, New Zealanders increased their use of data by 69% in 2018 alone; with that trend set to continue exponentially if competition can flourish in the mobile market.
- 8 **[SKYCI**]



WHAT DOES A COMPETITIVE MOBILE MARKET LOOK LIKE?

- 9 We see a competitive mobile market as one where:
- 9.1 Participants offer competitively priced data plans that span all consumer preferences from low data use to data-heavy content consumption.
 - 9.2 And one where MVNOs can enter the market on commercially viable wholesale terms in an operating environment where they can:
 - (a) readily switch between MNOs; and
 - (b) offer a full range of plans to cater for consumers seeking, in particular, higher data allowances.
- 10 As we read it, the Preliminary Findings suggest the mobile market is not necessarily competitive in at least two key areas:
- 10.1 First, while prices for low and medium usage bundles apparently compare well with other OECD countries, New Zealanders pay more for high use bundles than their counterparts in many comparable markets, particularly Australia (PF5).
 - 10.2 Secondly, MVNO market penetration is exceptionally low – potentially denying New Zealand consumers the benefits that flow from a more crowded field offering a more diverse range of products and services (PF9).
- 11 Those outcomes suggest there are structural impediments to competition in important corners of the mobile market which should be considered in future spectrum allocations.
- 12 We offer some brief observations below.
- Large data plans**
- 13 Increasingly consumers want to enjoy film, television and sporting content on the move and on their mobile device. But doing so is expensive, and that cost may be impacting the emergence of dynamic services and product bundles.
- 14 In reading the Preliminary Findings, it is hard to reconcile PF5 with PF20's conclusion that "conditions for effective competition exist" in the mobile market. All else being equal, there should be no reason for different competitive outcomes amongst different customer segments.
- 15 That fact that these different outcomes exist suggests there is a competition blockage somewhere in the mobile ecosystem, most likely in the amount and type of spectrum currently held by each of the incumbent MNOs, as PF7 suggests.

- 16 The work the Commission undertakes with MBIE under PA1 regarding future spectrum allocations is important in this regard.
- 17 We note PF8 and the directions in Minister Faafoi's 27 February 2019 Cabinet Paper on the Allocation of Radio Spectrum for 5G Mobile. That paper records at paragraph [52] that the design of an allocation process for the 3.5 GHz band is likely to be well-advanced by now and potentially too advanced for MBIE to accommodate the Commission's Market Study findings.
- 18 We will be interested to hear from the Commission whether you plan to take an active role in either approving future spectrum allocations or contributing to the allocation process by collaborating with MBIE, and whether future allocations beyond 3.5 GHz will be carefully staged over time to accommodate new competition opportunities.
- 19 On this last point we share Trustpower's expectation around emerging services and its observation that the Commission must be mindful to ensure that post-allocation contractual arrangements do not preclude the emergence of new products and services, and new entrants to the market. Here Sky supports PF21 and PF23.

MVNOs

- 20 On MVNOs, we acknowledge PF20's expectation that the wholesale market will develop "where market opportunities exist". But we note that PF20 leaves one asking why these opportunities have not arisen already? And what makes New Zealand different to the rest of the world?
- 21 SKY agrees with PF10 that future "spectrum allocation decisions will be critical to support competition from [MVNOs]" in the mobile market.

NEXT STEPS

- 22 SKY appreciates the opportunity to comment on the Commission's Preliminary Findings. The final report will help shape one of New Zealand's most important markets and, we hope, promote optimal conditions for new products and services, new entry and expansion.
- 23 Again, we are happy to meet with officials at any stage to share our views and experience.
- 24 We would appreciate being kept in touch with future developments.

Yours sincerely,



Chris Major

Director of External Affairs

