

# One NZ submission on review of national roaming

11 July 2023

## Introduction

1. We welcome the opportunity to comment on the Commerce Commission's (**the Commission**) review of National Roaming. We note the Commission's preliminary views on whether the National Roaming service should be removed from Schedule 1 of the Telecommunications Act (**the Act**). We have set out One NZ's position on this matter below.

## One NZ position

2. We consider that there are reasonable grounds for the Commission to commence an investigation into removing the National Roaming service from the list of the specified services in Schedule 1 of the Act.
  - a. **The regulations have never been used and it is unclear who they are serving.** These regulations were introduced when there were two dominant players in New Zealand's mobile market with the purpose of supporting a third entrant into the market and increasing competition. Historic concerns about competition to provide roaming services, and the ability to move between roaming providers, no longer apply. It is therefore not clear who the regulations are serving. In addition, the emergence of independent TowerCos has further lowered barriers for entry into the market, given TowerCos' incentives to increase co-location on cell towers.
  - b. **MNOs are highly incentivised to provide roaming via commercial agreements.** MNOs are facing challenging industry economics, reflected in the combination of increasing investment and costs, while prices for consumers have fallen by 9% since

2018 (compared to a 16% increase in overall CPI in the same period<sup>1</sup>), and revenues are remaining static. Under these conditions, MNOs are increasingly incentivised to seek alternative revenue sources and it is therefore in their interests to enter into wholesale agreements on commercial terms. For example, One NZ has had an arrangement since 2020 under which 2degrees provides services using Multi Operator Radio Access Network (MORAN) equipment installed on One NZ towers. Since 2020, One NZ has also launched a standalone wholesale business unit which is entirely focussed on increasing utilisation of our network by selling spare capacity to other service providers. We note the Commission's view that it is 'prudent to leave the current regulatory backstop in place as a competitive safeguard.' However, given the strong incentives outlined above, this is highly unlikely. This outcome would be inconsistent with the evolved market structure we now have and the continuing incentives for MNOs to maximise utilisation of their assets. These are enduring market features that are significantly different from those that existed when provision for national mobile roaming regulation was first made.

- c. **There is unlikely to be a fourth traditional entrant into the NZ mobile market.** We see no scope for further entry into the New Zealand mobile market under a traditional MNO model. If further entry into this market did occur, it would likely be in an alternative form – for example, a major digital service provider utilising an e-sim offering via network access arrangements with existing network operators. We expect that such a provider would have the scale and resources to successfully negotiate network access arrangements with one or more operators. We don't see the need for national roaming regulations to smooth a path for entry into the NZ market for these players because they are likely to have sufficient market power to be able to leverage entry.

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<sup>1</sup> Commerce Commission Annual Telecommunications Monitoring Report, 15 June 2023

- d. **The Commission has a responsibility to manage the stock of regulations.** It is part of good regulatory practice to give proper consideration to whether regulations continue to serve a purpose. The Government's Expectations for Good Regulatory Practice instruct regulatory agencies to monitor the performance of existing regulatory systems to determine whether they remain fit-for-purpose. Given the changes in the market since the national roaming regulations were put in place, it could be argued that they are no longer fit-for-purpose. The Productivity Commission has also advocated for better regulatory management, noting that effectively managing the stock of regulation includes retiring regulation when it is no longer needed<sup>1</sup>.
3. We are not at this stage proposing that the National Roaming service is indeed removed from the list of specified services in the Act but believe there are strong reasons for investigating this matter further. The National Roaming service was last amended in 2008. There have been significant market changes over the past 15 years. The Commission's Preliminary Views Paper states that it 'considers that reasonable grounds to investigate whether a service should be omitted from Schedule 1 exists where it appears that competition may have developed to such an extent that continued regulation is no longer necessary to best promote competition in telecommunications markets for the long-term benefit of end-users.' As noted in this submission, there are reasonable grounds to argue that market competition has developed to an extent that these regulations may now be redundant. It is therefore prudent that the Commission carries out a thorough review into whether there are reasonable grounds for the status quo to remain.
4. Please contact the following regarding any aspect of this submission.

*Tom Thursby*

*Head of Legal and Regulatory*

