

Infrastructure, Transport, Regional Development, Communications and the Arts

Committee Inquiries Question on Notice

Standing Committee On Communications and the Arts

Inquiry Into Co-investment in Multi-carrier Regional Mobile Infrastructure

IQ23-000008

Division/Agency: DIV - Communications Infrastructure

Hansard Reference: Written (15 February 2023)

Topic: Mobile Network Operators

Mr Brian Mitchell MP asked:

Are costs growing for Mobile Network Operators (MNOs) and tower companies to access the private and public land to establish and operate new regional telecommunications towers?

Answer:

It is important to note that Australia's mobile network carriers continue to invest considerable resources into maintaining, upgrading and expanding their networks. To meet connectivity needs and expectations, it is often necessary for MNOs to deploy new infrastructure in the communities. While the Department does not retain specific information relating to the individual costs of Mobile Network Operators (MNOs), a number of observations are provided below for the benefit of the Committee.

MNOs have claimed access to suitable land, including approvals, can be a problem when deploying new communications infrastructure. For example, under the Mobile Black Spot Program:

- There have been a number of instances where a specific land owner has sought leasing rates considered by the funding recipient to be significantly above the expected commercial rate for given the area. In these cases the funding recipient has sought to use other adjacent locations, where possible.
- We also understand there is concern the costs of access to Crown land can be higher than the typical commercial rates for an area, and the funding recipients will seek to avoid Crown land where possible.

Concerns have also been raised in the context of deploying new infrastructure in communities. Larger telecommunications infrastructure, such as towers and monopoles, are subject to approval under local, State and Territory planning laws. In its [5G Infrastructure Readiness Report](#) released in March 2021, the Australian Mobile Telecommunications Association (AMTA) outlined the impact different State and Territory planning arrangements can have for industry by causing delays and additional costs in deploying larger telecommunications infrastructure.

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For example, each jurisdiction currently determines its own costs applicable to land rental by MNOs, which are applied as part of the Development Application approval process or

other commercial agreement between the MNO and landowner. The recommendations in AMTA's paper called for alignment in these arrangements across all jurisdictions to enable infrastructure to be rolled out in a nationally consistent and efficient way.

On 31 March 2022, the Australian Government announced it had directed the Australian Competition and Consumer Commission (ACCC) to conduct an inquiry into towers used in the supply of mobile telecommunications and other radiocommunications services in regional areas, and into the feasibility of providing mobile roaming during natural disasters or other emergencies.

The inquiry will look at the costs of providing towers and associated infrastructure, including land access, and how these translate into the fee structures for firms that want to access towers to provide mobile or other wireless services. It will also look at the factors that are important for industry in deciding whether to invest in towers to provide better mobile coverage. The public consultation period commenced on 1 July 2022 and the submission period closed on 12 March 2023. The inquiry is to report by 30 June 2023.

The ACCC inquiry is expected to provide an evidence base to the Government to support future policy decisions.

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IQ23-000011

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Written (15 February 2023)

Topic: Amplitel

Mr Brian Mitchell MP asked:

1. According to Amplitel the main regulatory barriers need to be streamlined, does the department have any views on whether the burden on infrastructure providers is beyond the benefits they yield?

2. Amplitel claimed there are other disincentives to invest and could the department elaborate on any federal role in harmonisation of State and Territory planning and development approval processes, such as the exemption from planning and development approvals being extended to non-carriers infrastructure providers for telecommunications towers?;

Answer:

The suitability of ongoing regulatory requirements is a matter for the Government. Amplitel has not specified all of the regulatory barriers that it considers need to be streamlined within their submission to the Inquiry.

However, the Department can provide information to the Inquiry about the application of access arrangements to mobile tower companies and the powers and immunities that apply under the telecommunications law.

The facilities access regime is set out in Parts 3-7 of Schedule 1 to the *Telecommunications Act 1997*. It requires carriers to allow other carriers access to telecommunications transmission towers, sites containing telecommunications towers and eligible underground facilities. These requirements form part of the standard conditions imposed on a carrier licence. Specific conditions on how carriers are to comply with these requirements are set out by the ACCC in *A Code of Access to Telecommunications Transmission Towers, Sites of Towers and Underground Facilities* (the Facilities Access Code). One of the main tenets of the Facilities Access Code is to encourage co-location where reasonably practicable.

Additionally, Part 34B of the *Telecommunications Act 1997* extends the application of the access regime to non-carrier members of a 'carrier company group'. Subsection 581W(4) of the *Telecommunications Act* captures a non-carrier (like a tower co) if it is at least 15 per cent owned by a carrier company group. The Minister also has the power to amend this threshold via legislative instrument (see subsection 581W(3)). This threshold was inserted by the *Telstra Corporation and Other Legislation Amendment Act 2021* to prevent restructures

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being used to avoid access obligations from being effective. The ACCC endorsed the 15 per cent threshold in their review mandated by section 581ZH of the *Telecommunications Act*. The Department will continue to monitor these arrangements to ensure the threshold still achieves its anti-avoidance objectives.

Telecommunications carriers have powers under Schedule 3 of the *Telecommunications Act 1997* to inspect land, install 'low-impact' facilities, and to maintain any kind of telecommunications facility. They also have immunity from some state and territory laws when carrying out these activities, such as planning laws. This framework has been in place for over 20 years, and has been essential in enabling the efficient construction and maintenance of telecommunications networks in a nationally consistent way.

However, larger telecommunications infrastructure, such as towers and poles, cannot be deployed by carriers using the powers and immunities framework, and must be installed in accordance with local State or Territory planning laws. The Commonwealth is not involved in local or state and territory government planning processes.

The Australian Mobile Telecommunications Association (AMTA) released its 5G Infrastructure Readiness Report in March 2021 outlining the impact different State and Territory planning arrangements can have for industry by causing delays and additional costs in deploying larger telecommunications infrastructure. The report noted that some jurisdictions had or were in the process of implementing streamlined arrangements, such as New South Wales and Victoria. The recommendations in the paper called for alignment in these arrangements across all jurisdictions to enable infrastructure to be rolled out in a nationally consistent and efficient way. The report is available at <https://amta.org.au/5g-infrastructure-readiness-assessment/>

The department is investigating how best to streamline and facilitate the rollout of mobile infrastructure to improve coverage and reception. This work necessarily involves collaboration between the Commonwealth and State and Territory governments because, as AMTA's report notes, each jurisdiction has different arrangements in place to support the installation of larger telecommunications infrastructure.

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IQ23-00013

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Written (15 February 2023)

Topic: MNOs - Scope, terms & condition and fees

Mr Brian Mitchell MP asked:

Can the Department comment on whether the recent divestment of tower infrastructure by MNOs has impacted on: (i) the scope of access offered (ii) the terms and conditions of access, and (iii) the commercial and other fee arrangements for access?

Answer:

Terms of access are generally commercial matters between telecommunications providers and are not visible to the Department. Therefore, the Department is unable to provide specific comments on these types of arrangements. The Department notes that section 155 of the Competition and Consumer Act gives the Australian Competition and Consumer Commission (ACCC) the power to obtain confidential market information from relevant entities, including telecommunications providers, when investigating possible contraventions or designated telecommunications matters. Consequently, the ACCC may be in a better position to answer this question.

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IQ23-000014

Division/Agency: DIV - Communications Services and Consumer

Hansard Reference: Written (15 February 2023)

Topic: NSW \$30 million Active Sharing Grants Program

Mr Brian Mitchell MP asked:

Does the Federal Government support or play any role in the NSW \$30 million Active Sharing Grants Program, and support other states considering similar schemes?

Answer:

The Department actively engages with its state counterparts on mobile coverage issues including sharing knowledge and experience on program development. For example, the Department provides a Commonwealth representative to the Department of Regional NSW's Regional Digital Connectivity Steering Committee that discusses the development of NSW regional communications programs.

The Department is not directly involved in the implementation of the NSW \$30 million Active Sharing Grants Program. The two-stage approach to market is wholly managed by the NSW Government. The Commonwealth is not providing financial support to this NSW program.

The Department is not aware of other states planning similar programs at this stage, however, it understands there is considerable interest in the program.