How the Proposed RANCo JV May Affect Competition

A REPORT FOR WEBB HENDERSON

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I. Introduction

1. The Commerce Commission (the Commission) has received an application relating to a proposed joint venture that would own and operate the Radio Access Network (RAN) assets currently owned by 2degrees and One NZ.[1] The proposed joint venture (Proposed RANCo JV) would be jointly owned by 2degrees and One NZ (the Parties). We understand that RANCo would own and operate both Parties' RAN assets and supply RAN services back to each Party under long-term agreements. It would run one shared network across New Zealand, including in urban areas.

2. We have been instructed by Webb Henderson to set out the issues we consider the Commission should investigate in assessing whether the Proposed RANCo JV would be likely to substantially lessen competition. For each issue, we explain how the Proposed RANCo JV may affect competition and what evidence could be obtained to better understand the issue.

3. Section II provides some background on RAN sharing, including what we can learn from other countries. Section III sets out how competition operates between Mobile Network Operators (MNOs) and the importance of RAN infrastructure in that process. We then group the potential harms and benefits to competition into six categories:

    a. the Parties' and Spark's incentives to invest in network quality (Section IV);

    b. the Parties' incentives to set retail prices (Section V);

    c. the risk of coordination between the Parties (Section VI);

    d. the effects on wholesale competition to supply mobile virtual network operators (MVNOs) (Section VII);

    e. the effects on the upstream supply of RAN equipment (Section VIII); and

    f. the efficiencies that have been claimed (Section IX).

4. The potential theories of harm require testing against the facts of this case. Whether a theory applies, and how strongly, will depend on the terms of the agreement between the Parties and the patterns in industry data.

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[1] "Application for clearance of an acquisition of shares and assets of a business under section 66 of the Commerce Act 1986," 25 September 2026 ("Clearance application"), https://www.comcom.govt.nz/assets/Documents/timeline/RANCo-JV-Clearance-application-25-September-2026.pdf, ¶¶ 1-3.

II. Background on RAN Sharing

II.A. What is RAN Sharing?

5. RAN sharing allows two or more mobile operators to use the same base stations and radio equipment to connect customers to their networks. Operators can share the cost of building, maintaining and upgrading this equipment.

6. The extent of sharing varies.[2] Under passive sharing, operators share towers, sites, buildings or power supplies but retain separate radio equipment. Active RAN sharing extends to the equipment that transmits and processes mobile signals. Multi-Operator Radio Access Network (MORAN) is where operators share radio equipment while retaining separate spectrum and core networks, *i.e.,* the same equipment transmits on each operator's separate frequencies, and each operator's customers use the operator's own spectrum.

II.B. How Has RAN Sharing Been Assessed Internationally?

7. Across RAN sharing arrangements in Europe and Australia, active sharing between two of three MNOs has generally been excluded from, or limited in, the largest cities, while national arrangements that include cities have mostly been in markets with four or more MNOs.[3] RANCo would therefore be among the most extensive of these arrangements, because it would combine two of three MNOs' active networks nationally, including in cities.

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[2] Digital Regulation Platform (ITU and World Bank), "The infrastructure sharing imperative", 25 August 2022, accessed 9 November 2026, https://digitalregulation.org/the-infrastructure-sharing-imperative/; BEREC, "BEREC Common Position on Mobile Infrastructure Sharing", BoR (19) 110, 13 June 2019, accessed 9 November 2026, https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/6/BoR_%2819%29_110_CP_Infrastructure_sharing.pdf.

[3] National arrangements that include cities have been in markets with four or more MNOs, such as Sweden's Net4Mobility, owned by Tele2 and Telenor, "Tele2 and Telenor Now Cover Over 90% of Sweden's Population with 5G and 70% with High-Performance 5G+", accessed 9 November 2026, https://www.tele2.com/files/Main/3372/4086528/release.pdf; M. Bourreau, S. Hoernig and W. Maxwell, "Implementing Co-Investment and Network Sharing", CERRE report, May 2020, accessed 9 November 2026, https://cerre.eu/wp-content/uploads/2020/05/cerre_implementing_co-investment_and_network_sharing-26.05.2020_1.pdf ; OECD, Wireless Market Structures and Network Sharing, OECD Digital Economy Papers No. 243 (2014), p. 47 and Annex 1, p. 76.

8. Countries have adopted different arrangements for RAN sharing. Commercial RAN sharing in Europe ranges from regional agreements to nationwide joint networks, with different approaches to spectrum and geographic coverage. In Czechia, T-Mobile and O2/CETIN share active equipment with a geographic division of network responsibilities.[4] France's Crozon agreement between Bouygues Telecom and SFR[5] and Belgium's MWingz arrangement between Proximus and Orange[6] share active equipment while retaining separate spectrum. DNA and Telia combine frequencies through a regional shared network in northern and eastern Finland.[7] Vodafone and NOS in Portugal share active equipment without spectrum pooling in less populated areas and only share passive infrastructure in denser areas.[8] Vodafone and Nova's VICTUS arrangement in Greece uses MORAN mainly in rural and selected urban areas.[9] Poland's NetWorks!,[10] Denmark's TN-Network,[11] Slovakia's Telekom–O2/CETIN agreement[12] and the UK's Beacon and MBNL arrangements[13] provide further examples of joint network development and operation.

9. In Australia, the Australian Competition and Consumer Commission (ACCC) reached different conclusions on two proposed regional network and spectrum sharing

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4 European Commission, *Communication in Case AT.40305—Network Sharing—Czech Republic*, OJ C 398 (1 October 2021), footnote 9.

5 Arcep, "MOBILE NETWORK SHARING: Changes to the sharing agreement between Bouygues Telecom and SFR: Arcep receives a new amendment and concludes that no change is required", 30 October 2025, accessed 9 November 2026, https://en.arcep.fr/fileadmin/user_upload/80-25-english-version.pdf.

6 MWingz, 2022, "Our company", accessed 9 November 2026, https://mwingz.be/our-company/.

7 Telia Company, "TeliaSonera and DNA join forces in network sharing in Eastern and Northern Finland", 20 August 2014, accessed 9 November 2026, https://www.teliacompany.com/en/press-releases/teliasonera-dna-join-forces-in-network-sharing-in-eastern-northern-finland-2014-08-20-05-00-00.

8 Vodafone Portugal, "Vodafone Portugal and NOS sign a historic agreement for sharing infrastructure and mobile network development", 22 October 2020, accessed 9 November 2026, https://www.vodafone.pt/en/press-releases/2020/10/vodafone-portugal-and-nos-sign-a-historic-agreement-for-sharing-infrastructure-and-mobile-network-development.html.

9 Victus Networks, "Our Shareholders", ¶ 2, accessed 9 November 2026, https://www.victus.gr/.

10 Telecompaper, "T-Mobile, Orange extend network sharing in Poland", 8 December 2016, accessed 9 November 2026, https://www.telecompaper.com/news/t-mobile-orange-extend-network-sharing-in-poland--1175319.

11 TT-Netværket, "TN Network: Danmarks største mobilnetværk", accessed 9 November 2026, https://www.tn-network.dk/.

12 CETIN International, "CETIN Slovakia reduces environmental footprint through mobile network sharing", accessed 9 November 2026, https://www.cetin.international/w/cetin-5green-kop-c3-adrovat-.

13 Competition and Markets Authority, "Anticipated joint venture between Liberty Global plc and Telefónica S.A.: Final report", 20 May 2021, ¶¶ 7.67-7.69, accessed 9 November 2026, https://assets.publishing.service.gov.uk/media/60a55ec58fa8f520c5e44021/Virgin_O2_-_Final_Report_20.5.21.pdf.

arrangements. Both proposals concerned regional areas containing around 17 per cent of the population and retained separate metropolitan networks, distinguishing them from RANCo's proposed nationwide sharing. In December 2022, the ACCC refused authorisation for Telstra and TPG's proposed arrangement, under which TPG would obtain access to Telstra's regional network, give Telstra access to most of its regional spectrum, and decommission or transfer its regional sites.[14] Although the ACCC recognised improved coverage for TPG customers and cost savings, it considered that the arrangements would weaken infrastructure competition over time.[15] Access to TPG's spectrum would reinforce Telstra's already strong position, raise barriers to expansion and weaken rivals' investment incentives. The ACCC identified a risk that both TPG and Optus would invest less than without the arrangements, reducing competitive pressure to improve coverage, quality and innovation. It was not satisfied that either the competition test or the alternative net public benefit test for authorisation was met.

10. In September 2024, the ACCC did not oppose TPG's subsequent Multi-Operator Core Network (MOCN) arrangement with Optus, which similarly combined regional network access, spectrum sharing and the transfer or decommissioning of TPG sites.[16] Its assessment differed from the proposed arrangement with Telstra due to the different competitive circumstances: TPG was not a significant infrastructure competitor in the affected areas and was unlikely to become one, so the loss of independent infrastructure competition was expected to be limited. Better regional coverage would strengthen TPG's ability to compete, while access to TPG's spectrum would support Optus' regional 5G rollout. The ACCC therefore concluded that the arrangements were unlikely to substantially lessen competition in retail or wholesale mobile services. The contrasting decisions illustrate the importance of the operators' existing positions, likely investment without sharing, and the effect on competition from the remaining independent network.

11. These were not the ACCC's first reviews of RAN sharing. In 2004, it did not oppose two 3G RAN sharing arrangements, between Optus and Vodafone and between Telstra and Hutchison, while noting that they might reduce infrastructure-based competition. It

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[14] ACCC, "ACCC decides not to grant authorisation for Telstra and TPG regional network deal," 21 December 2022, accessed 9 November 2026, https://www.accc.gov.au/media-release/accc-decides-not-to-grant-authorisation-for-telstra-and-tpg-regional-network-deal.

[15] ACCC, "ACCC decides not to grant authorisation for Telstra and TPG regional network deal," 21 December 2022, accessed 9 November 2026, https://www.accc.gov.au/media-release/accc-decides-not-to-grant-authorisation-for-telstra-and-tpg-regional-network-deal.

[16] ACCC, "ACCC will not oppose Optus and TPG regional mobile network and spectrum sharing", 5 September 2024, accessed 9 November 2026, https://www.accc.gov.au/media-release/accc-will-not-oppose-optus-and-tpg-regional-mobile-network-and-spectrum-sharing.

took into account that the parties kept their freedom to compete at retail and limited the information they shared, and the Optus–Vodafone arrangement excluded inner Sydney and Melbourne, where the parties only co-located infrastructure.[17]

12. The ACCC is also considering, in its current mobile services inquiry, whether to declare a RAN service that would give access seekers access to another operator's active radio infrastructure. It has not formed a view, and notes that declaration could lower barriers to entry but "could also reduce the incentive for network expansion over the long term" and "could have negative implications on the access provider's incentives to invest."[18] Those benefits relate to giving access seekers access they would otherwise lack; RANCo would instead combine the networks of two established MNOs.

13. RAN sharing makes decisions about network coverage and capacity more interdependent between the participating operators. Where an agreement replaces independent network deployment with joint planning and limits unilateral investment, it can reduce competition between them on these dimensions in the areas it covers. Sharing confined to rural areas mainly affects coverage. A national arrangement such as RANCo would also cover urban areas, where the Parties compete on capacity, so the competition between them on capacity would depend on their scope to expand it independently (see Section IV.C).

14. The number and location of sites, equipment installed at each site and timing of upgrades determine where customers can obtain service and how well the network handles demand. The European Commission's 2023 Horizontal Guidelines explain that sharing can affect these investment decisions and, consequently, service quality and prices.[19] Active sharing raises greater concerns than passive tower sharing because it involves closer cooperation over both coverage and capacity. The Guidelines specifically state that network sharing agreements (NSAs) can give rise to restrictive effects on competition:

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[17] ACCC, "ACCC not to oppose 3G mobile radio access network sharing agreement between Optus and Vodafone", media release MR 279/04, 14 December 2004, accessed 10 November 2026, https://www.accc.gov.au/media-release/accc-not-to-oppose-3g-mobile-radio-access-network-sharing-agreement-between-optus-and-vodafone; ACCC, "ACCC not to oppose 3G radio access network sharing arrangement between Hutchison and Telstra", media release MR 276/04, 10 December 2004, accessed 10 November 2026, https://www.accc.gov.au/node/15723.

[18] ACCC, "Mobile services inquiry 2026–27: Discussion paper", October 2026, pp. v, 31–32, accessed 10 November 2026, https://www.accc.gov.au/system/files/mobile-services-inquiry-discussion-paper-october-2026.pdf.

[19] European Commission, "Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements", OJ C 259, 21 July 2023, accessed 9 November 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0721(01).

> They may limit infrastructure competition that would take place absent the agreement. Reduced infrastructure competition may in turn limit competition in the supply of mobile telecommunications services, at wholesale as well as at retail level. This is because more limited competition at the infrastructure level may affect parameters of competition such as the number, location and installed capacity of infrastructure sites, the availability of backhaul connections for sites where the parties to the NSA co-locate their mobile communications equipment, the timing of the rollout of new sites, as well as the amount of capacity installed at each site, which, in turn, can affect quality of service and prices at wholesale and retail level.[20]

15. An article on the Digital Regulation Platform, a joint ITU and World Bank resource, discusses the positive and negative impacts of infrastructure sharing.[21] On one hand, infrastructure sharing can lower construction and operating costs, reduce land, energy and material use, and make coverage expansion more economical in rural areas. It can also help entrants compete by giving them access to infrastructure that would be costly to replicate. Consumers may benefit through lower prices, wider coverage and better service, although these outcomes depend on how operators use the savings and the strength of competition.

16. On the other hand, sharing can weaken incentives to invest independently and reduce operators' ability to compete on network quality. Active sharing requires coordination and information exchange between competitors, which can increase the risk of collusion. Dependence on common infrastructure can also make outages more widespread, while joint planning and disputes over access, capacity and upgrades can add costs and delay deployment.

17. It appears that the proposed RANCo JV falls under the MORAN category in which operators propose to share RAN equipment but may not combine their spectrum assets. The Commission may wish to confirm whether spectrum could be added later,

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[20] European Commission, "Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements", OJ C 259, 21 July 2023, ¶ 262, accessed 9 November 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0721(01).

[21] Digital Regulation Platform (ITU and World Bank), "The infrastructure sharing imperative", 25 August 2022, §§ 6.1-6.2, accessed 9 November 2026, https://digitalregulation.org/the-infrastructure-sharing-imperative/.

for example by licensing, without further review by the Commission. For RANCo, the arrangement between T-Mobile and O2/CETIN in Czechia is arguably the closest European comparator that a competition authority has examined in detail, because it involved extensive MORAN sharing between the two largest of three MNOs, although it excluded Prague and Brno.[22] The European Commission was concerned that the network-sharing agreements reduced T-Mobile's and O2's ability and incentive to invest independently, weakening competition on network quality and capacity.[23] Each depended on the operator responsible for the shared network in a region to implement upgrades. The European Commission identified a lack of deployment of T-Mobile's 2100 MHz LTE capacity in eastern Czechia, where CETIN operated the network, and restrictions on the parties' flexibility to expand capacity in the 1800 MHz band.[24] It also found, provisionally, that charges for unilateral upgrades exceeded the underlying costs, making investments less attractive than if each operator controlled its own network.[25] The European Commission also considered that the parties exchanged more strategic information than was necessary to operate the shared network.[26] This could discourage either operator from investing to gain an advantage over the other. CETIN's structural separation from O2 did not adequately address the concern because its contractual obligations allowed information to pass to O2.[27]

18. The ultimate competitive effects depend on what the operators share, where they share it and how they make investment decisions. Sharing rural sites to extend coverage raises different questions from combining networks in cities where operators compete on capacity and speed. Ownership, cost allocation and each operator's ability to add sites or upgrade independently also matter. BEREC calls for assessment of individual agreements, including their cost and coverage benefits, the information

[22] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recitals 57, 61-62 and 176-178, and footnotes 126 and 211, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

[23] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recital 89, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

[24] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recitals 98-108, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

[25] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recitals 115-124, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

[26] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recitals 126 and 131-136, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

[27] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recitals 146-147, accessed 9 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

exchanged between operators, and the effects on investment and service differentiation.[28]

19. The academic literature on infrastructure sharing recognises the risks of weaker independent investment, higher effective input charges and coordination spilling into retail competition. In their theoretical model, Foros, Hansen and Vergé (2023) show that under certain conditions, sharing can reduce quality investment when firms make investment decisions separately because each can benefit from the other's spending.[29] Bourreau, Hoernig, and Maxwell (2020) discuss excessive internal access charges that soften retail competition, restrictions on independent investment and differentiation, one partner holding back another's upgrades and information exchange that supports coordination beyond investment in the context of network sharing.[30] Whether the risks outweigh the efficiencies depends on the agreement's charging rules, investment rights, information safeguards and the competitive constraint from operators outside it.

20. European authorities have assessed RAN sharing proposals through detailed examination of their terms and market context, rather than accepting them on the general proposition that sharing may lessen competition or increase efficiency. BEREC calls for case-by-case analysis,[31] and the European Commission's Czechia decision shows why such a detailed review is warranted.[32] For example, an assessment including the competitive market forces, type of sharing, charges for unilateral upgrades, technical restrictions and information-sharing rules and their impact on the ability of parties to compete, reversibility of any contractual arrangements, amongst

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[28] BEREC, "BEREC Common Position on Mobile Infrastructure Sharing", BoR (19) 110, 13 June 2019, accessed 9 November 2026, https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/6/BoR_%2819%29_110_CP_Infrastructure_sharing.pdf.

[29] Ø. Foros, B. Hansen and T. Vergé, "Co-operative investment by downstream rivals: network sharing in telecom markets", *Journal of Regulatory Economics* 64 (2023), 34–47, accessed 9 November 2026, https://link.springer.com/article/10.1007/s11149-023-09462-1.

[30] M. Bourreau, S. Hoernig and W. Maxwell, "Implementing Co-Investment and Network Sharing", CERRE report, May 2020, § 3.3, accessed 9 November 2026, https://cerre.eu/wp-content/uploads/2020/05/cerre_implementing_co-investment_and_network_sharing-26.05.2020_1.pdf.

[31] BEREC, "BEREC Common Position on Mobile Infrastructure Sharing", BoR (19) 110, 13 June 2019, accessed 10 November 2026, https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/6/BoR_%2819%29_110_CP_Infrastructure_sharing.pdf

[32] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, accessed 10 November 2026, https://ec.europa.eu/competition/antitrust/cases1/202250/AT_40305_8638841_4187_5.pdf.

other factors, is needed to determine whether operators retain the ability and incentive to compete through investment.

21. Several features of RANCo warrant similarly close scrutiny. The proposal would combine the RANs of two of New Zealand's three MNOs nationally, including urban areas where operators compete on capacity, speed and network upgrades. Its effects will depend on provisions governing investment requests, cost allocation, access to additional capacity and information exchange. Limited visibility of the RAN Services Agreement (RANSA) and future ownership arrangements makes it difficult for interested parties to assess these incentives, including how they might change if ownership were transferred. These gaps do not establish that the proposal would harm competition, but they warrant further examination before concluding that its safeguards preserve independent competition or that its claimed savings would benefit consumers.

III. How Competition Between MNOs Works

III.A. MNOs Compete on Price and Network Quality

22. Spark, One NZ and 2degrees compete to sell mobile services, including fixed wireless access (FWA), to retail customers, and supply wholesale access to MVNOs across New Zealand. The MNOs offer various mobile services with a range of characteristics, including price, data allowances and network quality (coverage, speed and capacity). They change these characteristics to gain a competitive advantage over their rivals.

23. Price is the reason New Zealand consumers cite most often when choosing a provider, but network quality is also among the most important factors. In a 2018 survey cited by the Commission, 52% of consumers named price as important, 16% coverage and 15% data speeds.[33] Among consumers surveyed in the first half of 2025 who had switched mobile provider in the preceding 12 months, 42% cited a lower price, 23% faster speed and 14% better coverage.[34] The MNOs also compete openly on network benchmarks: in Opensignal's October 2025 report, One NZ led on download speed,

[33] Commerce Commission, *Mobile Market Study: Findings report* (26 September 2019), ¶ 3.30, citing Analysys Mason's 2018 Connected Consumer Survey.

[34] Commerce Commission, *Telecommunications Consumer Satisfaction Monitoring Report*, January to June 2025, p. 34 (138 mobile switchers; multiple responses allowed).

Spark on coverage and 2degrees on upload speed, and One NZ advertises umlaut's ranking of it as the best mobile network five years running.[35]

III.B. RAN Density and Investment Are Key Drivers of Network Quality

24. The capacity an MNO offers in an area depends on its spectrum, the efficiency of its equipment and the number of sites it has there.[36] MNOs make choices regularly on where to put sites, how much capacity to install at each and when to upgrade. These are the parameters of competition the European Commission says network sharing can affect.[37] In addition, the equipment used may be homogeneous, as the Parties argue,[38] but how much of it each MNO deploys, where and when, determines the downstream quality that consumers experience. In the ACCC's words, "[n]etwork coverage, quality, and innovation are primarily functions of network investment, and are important parameters of competition".[39]

III.C. RANCo Changes the Economic Incentives Within the Wireless Service Supply Chain

25. If the Proposed RANCo JV does not go ahead, each MNO will own its RAN (*i.e.*, it will be vertically integrated). Hence, from an economic perspective it is priced internally at the true cost of carrying traffic and the full benefit of selling the traffic downstream is returned to the MNO. The Proposed RANCo JV could change this in two ways:

    a. **Partial vertical separation.** Each Party would no longer own its RAN outright, but would buy RAN services from RANCo, a company it part-owns, under a

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[35] Opensignal, *New Zealand Mobile Network Experience Report*, October 2025; One NZ, "One NZ has the best mobile network for five years running, according to independent testing by umlaut," media release, 9 June 2026.

[36] Clearance application (25 September 2026), footnote 66 ("*Capacity within a particular geographic area is primarily determined by the RAN Assets deployed at each PoP and the amount of spectrum enabled across those Assets*"). See also Ofcom, *Market structure, investment and quality in the mobile industry* (December 2020), ¶ 3.7.

[37] European Commission, "Guidelines on the applicability of Article 101 of the Treaty on the Functioning of the European Union to horizontal co-operation agreements", 21 July 2023, OJ C 259 (2023), ¶ 262 ("*[M]ore limited competition at the infrastructure level may affect parameters of competition such as the number, location and installed capacity of infrastructure sites ... the timing of the rollout of new sites, as well as the amount of capacity installed at each site*"), accessed 9 November 2026, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023XC0721(01).

[38] Clearance application (25 September 2026), ¶¶ 190(a) and 192-193.

[39] ACCC, *Summary of Reasons*, Telstra/TPG (MA1000021), 21 December 2022, p. vi.

rate card. What a Party pays for an extra unit of traffic and what it earns back from it would then be set by contract and RANCo's structure and ownership. These terms may depart from vertical integration. If more of RANCo's ownership is transferred to a third-party over time, this would imply further departure from vertical integration.

b. **Horizontal consolidation.** Each Party would co-own, and jointly plan, the network the other Party uses to compete against it. Each would share in the other's sales through RANCo's profits, would gain less from building sites to win customers from the other, and would share its network plans with RANCo. RANCo would also buy RAN equipment for both Parties.

26. Sections IV to VIII below examine these potential competitive effects, whilst Section IX considers the claimed efficiencies.

IV. Competition to Invest

IV.A. Jointly Planned Sites May Weaken Incentives to Build New Sites

27. The return to adding sites may fall most in urban areas, where the networks overlap. BEREC considers that in areas where full infrastructure-based competition is feasible, which "will be very likely in the most densely populated ones", "infrastructure-based competition is very likely more beneficial than active sharing".[40] The European Commission reached a similar view in a recent case in Czechia. It considered that without the sharing agreements, "when making their unilateral roll-out plans neither of T-Mobile and O2/CETIN would take the interests of their competitor into account", and that, in the absence of efficiencies, they would "in all likelihood choose a level of investment that is higher than in the case in which they enter into [a network sharing agreement]".[41] Similarly, Foros, Hansen and Vergé (2023) show that, under certain conditions, sharing can reduce quality investment because each partner benefits from the other's spending.[42]

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[40] BEREC, "BEREC Common Position on Mobile Infrastructure Sharing", BoR (19) 110, 13 June 2019, § 4.2(a), accessed 9 November 2026, https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/6/BoR_%2819%29_110_CP_Infrastructure_sharing.pdf.

[41] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recital 167.

[42] Ø. Foros, B. Hansen and T. Vergé, "Co-operative investment by downstream rivals: network sharing in telecom markets", *Journal of Regulatory Economics* 64 (2023), 34–47, accessed 9 November 2026, https://link.springer.com/article/10.1007/s11149-023-09462-1.

28. Without the Proposed RANCo JV, an MNO building a new site increases the quality of its service and leads to that MNO winning customers from all of its rivals (holding all else equal). With the Proposed RANCo JV, a jointly planned site improves both partners' networks, so it wins incremental customers only from Spark or from new demand, not from the other partner (holding all else equal).[43] This potentially reduces the benefit from increasing quality through densifying for the Parties.

29. In addition, because a new site improves coverage and capacity only in the area around it, the incentive to invest has a local dimension. It depends on how closely the Parties compete for customers in that area, which may differ from their national shares, in particular, between urban and rural areas. This implies that any impact on the Parties' incentives to invest should also be considered at a local level.[44]

How to Assess this Effect

30. Diversion between the Parties by region would be useful information to obtain (*i.e.*, porting data). The closer the Parties compete in an area, the greater is the effect described above. In the extreme, if the Parties do not compete at all in an area, the effect above does not apply.

31. Examine each Party's standalone densification plans, compared with RANCo's Annual Deployment Plan. This shows directly whether RANCo would build fewer sites than the Parties would on their own.

32. The Commission could review the process by which RANCo will decide to make investments to test whether this may be different from the decision-making process without the Proposed RANCo JV.

IV.B. Shared Site Costs Could Make More Rural Sites Viable

33. Each Party to the Proposed RANCo JV pays for only part of a shared site, so sites neither Party would build alone may become profitable for RANCo to build, mainly in rural areas. The Parties also claim faster rollout of 5G and future technologies with the Proposed RANCo JV.

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[43] This excludes switching to MVNOs, who may use the network of the Parties.

[44] Empirical work finds that network investment responds to competition in the local area. In US cellular markets, incumbents facing more competitors in a local market were more likely to upgrade from analog to digital networks. See, K. Seim and V.B. Viard, "The Effect of Market Structure on Cellular Technology Adoption and Pricing," *American Economic Journal: Microeconomics* 3(2) (2011), 221–251.

34. Existing sharing arrangements already provide some (potentially all) of these benefits. The Commission has found that recent extension of coverage into rural and 'black spot' areas "has largely been government funded through RCG sites, which utilise RAN sharing to enable all three MNOs to use the sites", referring to the Rural Connectivity Group (RCG).[45] Sharing of this kind relates to coverage, where RANCo would also affect capacity.

35. Any expanded RAN deployments are a benefit of the JV only if they would not be built and shared without the JV. Without the JV, the Parties could continue to share individual sites through the RCG, tower company co-location or bilateral agreements, and could extend active sharing in rural areas without combining their urban networks. The cost of sharing a site could also be higher or lower under RANCo than under those arrangements, depending on how RANCo's charges compare with those under other arrangements.

How to Assess this Effect

36. Examine the number and location of sites RANCo would build that neither Party would build alone. These are the sites that could count as a benefit of the JV if there is a reason why they would not be built through some other sharing mechanism without the proposed JV.

37. Review existing actual and potential sharing arrangements (between the Parties and through RCG) and the sites they cover. Sites that are already shared (or would be shared in future) are not an additional benefit of RANCo.

38. Examine the basis and evidence for the claim of faster 5G rollout. The claim is a benefit only if rollout would be slower without RANCo.

39. Review the cost to each Party of sharing a site under existing arrangements, compared with RANCo's charge for a shared site. If RANCo's charge is higher, sharing through RANCo is a cost of the JV rather than a benefit.

IV.C. Requested-Site Terms May Affect Incentives to Invest Independently

40. The extent to which a Party can improve its network independently from the other Party will depend on the terms for requesting additional sites and its ability to procure

[45] Commerce Commission, *Mobile Co-location Schedule 3 Review 2025: Reasonable grounds assessment, final decision paper* (24 February 2026), ¶ 2.23.

infrastructure outside of RANCo. Access by the other Party may reduce the competitive advantage from a requested site, while approval requirements, delays or charges above standalone cost may make investment less attractive. Conversely, lower costs may offset some of these effects. The Commission should assess these factors together.

41. *Example:* an urban site costs $10 and is worth $12 of profits to One NZ, of which $8 is won from diversion coming from 2degrees. Then with exclusive use of the site, One NZ may request this urban site at the cost of $10. However, if 2degrees can use it once built (without changing the cost for One NZ), it is worth only $4 of profits to One NZ and is not requested. This simple example shows that the effectiveness of the unilateral "requested site" mechanism depends on deal specifics and the strength of substitution between the Parties.

How to Assess this Effect

42. Review the price of a requested site compared with the standalone cost, including any overheads or premium. A price above standalone cost can make a site that is worth building alone not worth requesting.

43. Examine whether, when and on what terms the other Party can use a requested site. If the other Party can use the site, the requesting Party wins fewer customers from it.

44. Assess any veto, approval right or advance notice to the other Party. These would let the other Party block, or respond in advance to, a site built to win its customers.

45. Assess whether a Party can build its own sites outside RANCo. If it can, it keeps a route to out-build the other Party. This may matter more where the Parties differ in their ability to invest.

IV.D. The Less Willing Partner May Set the Pace of Investment

46. Without the Proposed RANCo JV, each Party decides its own pace of investment. Presumably, the pace of investment would be different between the Parties.

47. With the Proposed RANCo JV, the pace of investment may be decided by the Party that has a slower pace of network expansion and investment, if both Parties must agree to the investment (depending on the precise nature of the agreements between the Parties). This may result in less investment than without the JV. Consistent with this, Bourreau, Hoernig, and Maxwell (2020) explain that when partners' investment

incentives are not aligned, one partner may hold back the other, slowing its investment.[46] Even where both Parties want to invest, agreeing a joint plan may take time and delay investment.

48. *Example:* Without the Proposed RANCo JV, assume that one Party to the JV was going to make a specific investment in its RAN. The other Party may veto this investment with the Proposed RANCo JV in place, reducing investment and the benefits it can bring to consumers.

How to Assess this Effect

49. Review the voting, deadlock and escalation rules governing approval of RANCo's Annual Deployment Plan. If the plan needs both Parties to agree, the less willing Party can hold back investment.

50. It would be helpful to review each Party's standalone site plans compared with RANCo's plan. This shows whether the joint plan is less ambitious than the more willing Party's own plan.

51. Examine whether each Party would have an incentive to wait for the other to suggest an expansion if the other Party had to pay the cost of expansion (for a period at least).

IV.E. A Larger Rival Network Could Weaken Spark's Incentives to Compete on Network Quality

52. The incentive to invest for an MNO depends on the return on that investment, which itself is a function of the size of the competitive advantage it provides, and the length of time that advantage lasts (amongst other things). MNOs have a greater incentive to invest in a quality improvement that customers care about, gives a clear advantage over one or more rivals, and lasts a long time (holding all else equal).[47]

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[46] M. Bourreau, S. Hoernig and W. Maxwell, "Implementing Co-Investment and Network Sharing", CERRE report, May 2020, p. 24 ("*If investment incentives between the parties are not aligned, one of the parties may be able to hold back the others, slowing the others' pace of investment*"), accessed 9 November 2026, https://cerre.eu/wp-content/uploads/2020/05/cerre_implementing_co-investment_and_network_sharing-26.05.2020_1.pdf.

[47] For example, in the context of how information sharing may reduce the length of time that an investment provides a competitive advantage, BEREC explains that if one MNO's investment could immediately be matched by another MNO's investment, "*this reduces the incentive to invest and could potentially stop such upgrade plans, as there is not even a temporary competitive advantage and thus no customer gain from the partner MNO*." See, BEREC, "BEREC Common Position on Mobile

Continued on next page

53. The Proposed RANCo JV may reduce the extent to which investment by Spark gives it a competitive advantage, and the length of time that advantage lasts, because the Proposed RANCo JV may be able more quickly and easily to match any improvement made by Spark, compared to the situation without the JV. Without the JV, any improvement Spark made would provide some advantage until both its MNO rivals had made a similar investment.

54. Consistent with these potential effects on Spark's investment incentives, when assessing the Telstra-TPG arrangement in Australia, the ACCC considered that their rival, Optus, would lose the competitive advantage gained through past investments in 5G coverage.[48] This would make it harder to attract customers through further network investment and make "the business case for future network investment…more challenging."[49] The ACCC concluded that the arrangement was likely to result in "a material reduction in Optus' investment incentives."[50]

How to Assess this Effect

55. The Commission could examine the expected return on quality improvements for Spark, with and without the Proposed RANCo JV, using information on:

    a. Spark's investment strategy, recent investment decisions, planned investments and expected returns. This shows how much of the return on Spark's investments depends on staying ahead of its rivals.

    b. How quickly the Parties matched Spark's past network upgrades. This is the benchmark for testing whether RANCo would match Spark faster.

    c. RANCo's technology rollout plan. This shows how quickly RANCo plans to match or overtake Spark's network.

Infrastructure Sharing", BoR (19) 110, 13 June 2019, accessed 9 November 2026, https://www.berec.europa.eu/sites/default/files/files/document_register_store/2019/6/BoR_%2819%29_110_CP_Infrastructure_sharing.pdf.

[48] ACCC, "Reasons for determination", Telstra/TPG (MA1000021), 21 December 2022, ¶ 9.138, accessed 9 November 2026, https://www.accc.gov.au/system/files/public-registers/documents/Reasons%20for%20determination%20-%2021.12.12%20-%20PR%20-%20MA1000021%20Telstra%20TPG_0.pdf.

[49] ACCC, "Reasons for determination", Telstra/TPG (MA1000021), 21 December 2022, ¶ 9.138, accessed 9 November 2026, https://www.accc.gov.au/system/files/public-registers/documents/Reasons%20for%20determination%20-%2021.12.12%20-%20PR%20-%20MA1000021%20Telstra%20TPG_0.pdf.

[50] ACCC, "Reasons for determination", Telstra/TPG (MA1000021), 21 December 2022, ¶ 9.142, accessed 9 November 2026, https://www.accc.gov.au/system/files/public-registers/documents/Reasons%20for%20determination%20-%2021.12.12%20-%20PR%20-%20MA1000021%20Telstra%20TPG_0.pdf.

V. Competition in Retail Prices

V.A. RANCo's Rate Structure May Raise the Parties' Marginal Costs

56. Most RAN costs are fixed over the short term up to a network capacity threshold. Up to this threshold, sites, equipment and power cost much the same whether or not traffic flows, and carrying an extra unit of traffic costs little until a cell is congested. Without the Proposed RANCo JV, therefore, an extra customer adds little to an MNO's network costs once it is deployed. Hence, in this context, for a vertically integrated MNO, the marginal cost of carrying an additional unit of traffic or serving an additional subscriber is likely to be low.

57. However, with the creation of RANCo, the retail pricing decisions of 2degrees and One NZ will depend on how RANCo charges the Parties for access to the shared RAN. For example, if RANCo allocates its fixed costs by traffic or by customer share, winning a customer from the other Party raises the winner's share of the cost and lowers the other Party's. In essence, a fixed cost becomes more "marginal."

58. *Example:* RANCo's costs are a fixed $100, split by traffic. One NZ carries 60 units and 2degrees 40. One NZ gaining a new customer (not from 2degrees) means that its bill increases from $60 to $60.40 ($100 × 61/101). There is no such effect in the counterfactual without the proposed JV, and so there is a greater incentive to win a new customer in this example without the Proposed RANCo JV.

59. The European Commission raised the same concern recently in Czechia, where charging for upgrades by subscribers or traffic would turn fixed costs into variable costs, "thereby making this operator less aggressive on the product market."[51]

60. The OECD has made a similar point, *i.e.*, where shared costs are allocated by traffic, "the incremental cost faced by each MNO for providing additional capacity is in effect the average cost of capacity, which is likely to be higher than the incremental cost of capacity absent the sharing arrangements".[52] Fjell, Foros and Kind (2015) show that

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[51] European Commission, "Case AT.40305 Network sharing - Czech Republic", 11 July 2022, recital 122 ("*By making more costs variable compared to the cost structure of a stand-alone operator, the NSAs would be artificially increasing the variable costs of an operator, thereby making this operator less aggressive on the product market.*").

[52] OECD, *Wireless Market Structures and Network Sharing*, OECD Digital Economy Papers No. 243 (2014), p. 68 ("*If costs are shared in proportion to traffic, the incremental cost faced by each MNO*

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when an input joint venture recovers its fixed costs through per-unit charges, each partner's perceived marginal cost is above its true marginal cost, which softens downstream competition; recovering the fixed costs through lump-sum payments avoids this.[53] Bourreau, Hoernig, and Maxwell (2020) also identify excessive internal access charges as a way network sharing can soften retail competition.[54]

61. The Commission should consider the prices that RANCo would charge the Parties, in addition to the provisions of the RAN Services Agreements (RANSAs) that relate to changes to those prices and other key terms.

How to Assess this Effect

62. The Commission could compare the incentive to win new customers for the Parties with and without the Proposed RANCo JV in place. This requires an assessment of:

    a. the additional RAN cost incurred by 2degrees and One NZ in the absence of the proposed JV if they each served a new customer;

    b. the additional cost incurred by 2degrees and One NZ for using RANCo under the proposed JV when they acquire an additional customer. This requires an understanding of:

        i. the rate card for RANCo: what each charge is based on (traffic, customers, sites, coverage or fixed shares). This would show whether a Party's bill rises with its own traffic, which is what would turn fixed RAN costs into marginal costs; and

        ii. RANCo's forecast costs, split into fixed and traffic-driven. This would show how far the charges reflect the real cost of carrying extra traffic rather than fixed costs recovered per unit; and

    c. each Party's RAN costs as a share of its total costs. This indicates how much a change in the cost of an extra unit of traffic could affect retail prices.

for providing additional capacity is in effect the average cost of capacity, which is likely to be higher than the incremental cost of capacity absent the sharing arrangements, and as such the incentive to compete to provide that capacity to MVNOs is reduced.").

[53] K. Fjell, Ø. Foros and H.J. Kind, "On the Choice of Royalty Rule to Cover Fixed Costs in Input Joint Ventures," *International Journal of the Economics of Business* 22(3) (2015), 393–406.

[54] M. Bourreau, S. Hoernig and W. Maxwell, "Implementing Co-Investment and Network Sharing", CERRE report, May 2020, § 3.3, accessed 9 November 2026, https://cerre.eu/wp-content/uploads/2020/05/cerre_implementing_co-investment_and_network_sharing-26.05.2020_1.pdf.

63. This assessment should also model scenarios in which rate card charges increase after the JV is established, taking account of the contractual provisions governing such changes.

V.B. Sharing RANCo's Profits May Affect Incentives to Compete on Price

64. RANCo is likely to earn a profit that would need to be shared between the JV partners. If that is the case, the incentive of the JV partners to increase prices may be higher with the Proposed RANCo JV in place because losing customers may become less costly for each individual Party. This is a similar mechanism that applies to horizontal mergers between firms supplying substitutable products, *i.e.*, a horizontal merger can weaken incentives to compete on price because raising prices for one of the merging parties is more profitable when some of the customers lost by that firm are recaptured by the other.[55] Reynolds and Snapp (1986) show that in theory, partial ownership interests between competitors, including joint ventures, reduce each firm's incentive to compete, because each firm shares in the profit its rival earns.[56]

65. Without the Proposed RANCo JV, when a Party raises its price, all of the profits that it was earning on customers that switch away are lost. With the Proposed RANCo JV in place, customers who switch to the other Party following a price increase would continue to generate revenue for RANCo. To the extent that this revenue exceeds RANCo's incremental costs, the Party losing those customers would retain a share of the resulting contribution through its ownership of RANCo. This could make losing customers to the other Party less costly and weaken incentives to compete on retail prices. The size of this effect depends on customer diversion between the Parties, RANCo's charging arrangements and how its profits are distributed.

How to Assess this Effect

66. The critical questions are how many customers would switch to the other Party following a price increase, and how much profit the Party raising its price would retain through its ownership of RANCo. The following information would assist:

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[55] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶¶ 3.71 to 3.72. *See also* J. Farrell and C. Shapiro, "Antitrust Evaluation of Horizontal Mergers: An Economic Alternative to Market Definition," *B.E. Journal of Theoretical Economics* 10(1) (2010).

[56] R.J. Reynolds and B.R. Snapp, "The Competitive Effects of Partial Equity Interests and Joint Ventures," *International Journal of Industrial Organization* 4(2) (1986), 141–153.

a. RANCo's charges and incremental costs. The additional revenue and incremental costs to RANCo associated with serving a customer through each Party. The relevant margin could arise from charges based on customers, traffic or other measures of usage.

b. How the cost of each Party's RAN is affected by new customers without the Proposed RANCo JV in place.

c. How RANCo's profits would be distributed. Whether distributions depend on shareholdings, each Party's usage or another measure. Together with the charging arrangements, this determines how much RANCo profit a Party would retain when a customer switches to the other Party.

d. Diversion between the Parties. The proportion of customers lost following a price increase that would switch to the other Party, rather than to Spark or other alternatives. Porting data can inform this assessment, although observed switching does not necessarily measure responses to a price increase.

67. The incentive to raise prices through this mechanism would be greater, all else equal, where diversion to the other Party is higher and the RANCo contribution retained on each diverted customer is larger.

VI. Coordinated Effects

VI.A. Coordination May Be More Likely with RANCo in Place

68. The JV may increase the risk of coordination between the JV partners because it would make them more alike and could provide them with better quality and more up-to-date information on what the other Party is doing.

69. Coordination requires firms to reach an agreement or understanding on their coordination, and to monitor each other's conduct.[57] It is generally easier to reach an agreement when there are fewer firms and they have similar costs.[58] Relatedly, the presence of mavericks can be important in destabilising potential coordination. By

[57] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶ 3.88.

[58] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶¶ 3.89.2, 3.89.4.

making 2degrees' network costs and capabilities more like One NZ's, RANCo could reduce its incentive to be a maverick.

70. Coordination need not be on price: the Parties could also align the timing, location and capacity of network investment.[59] The Commission's guidelines list repeated interaction, including through meetings "to set technical standards", as a feature that may facilitate coordination.[60] The OECD notes that where a joint venture sells access to a shared network to both partners, their input costs may be the same, so that "they will not compete significantly on price or services".[61]

71. The Commission could assess whether firms could reach a common understanding, detect and respond to departures from it, and sustain coordination despite competition from firms outside the coordinating group.

How to Assess this Effect

72. The Commission could examine how difficult coordination would be between the Parties after the Proposed RANCo JV.

73. The Commission could assess the changes the proposed JV makes that make coordination easier, including how far the Parties' networks would converge under RANCo (coverage, capacity and speed by area). The more alike the Parties become, the easier coordination may be.

VII. Wholesale Competition

VII.A. Fewer Host Networks May Weaken Competition for MVNOs

74. MVNOs purchase wholesale network services from MNOs. Although all three MNOs would remain potential wholesale suppliers following the proposed JV, One NZ and 2degrees would rely on a common RAN rather than independently operated RANs. This could reduce their ability to differentiate their wholesale offers through network coverage, capacity and quality. RANCo's charging arrangements could also affect their

[59] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶ 3.85 ("*Firms may coordinate their behaviour on price or any other dimension of competition or by allocating customers or territories.*").

[60] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶ 3.89.3.

[61] OECD, *Wireless Market Structures and Network Sharing*, OECD Digital Economy Papers No. 243 (2014), p. 67.

incentives to compete on wholesale prices, through the mechanisms discussed above. The Commission should therefore examine whether the Parties would remain effective independent alternatives for MVNOs, and whether any weakening of competition between them would reduce MVNOs' bargaining power or worsen wholesale terms.

How to Assess this Effect

75. Assess the situations in which MVNOs switched (or considered switching) between host networks, the reasons for the switch (or lack thereof) and the competing offers provided by MNOs to MVNOs. This shows whether MVNOs see the Parties as close alternatives, and how much network quality matters to them.

76. Examine whether, and how, RANCo's charges would flow into wholesale prices. If they do, the price effects set out earlier would also reach MVNOs and their customers.

VIII. Upstream Effects on Equipment Vendors

77. RANCo would buy RAN equipment for two of the three MNOs, and may consolidate on fewer vendors. A vendor that loses that business may not find it worthwhile to keep a presence (engineering, support and spares) in New Zealand for Spark and other smaller buyers.

78. Returning to New Zealand would mean rebuilding that presence, so an exit could be lasting, weakening Spark's position when buying equipment and upgrades. Changing RAN vendor is costly and takes time, so MNOs do it rarely, often at a technology upgrade. The application notes that New Zealand MNOs typically buy RAN equipment from two main suppliers, Ericsson and Nokia.[62]

How to Assess this Effect

79. Review each MNO's current RAN vendors, by region and technology. This shows which vendor would lose business if RANCo consolidates.

80. Assess RANCo's procurement plans, including the number of vendors and the timing of any equipment swaps. This shows whether RANCo plans to drop a vendor, and when.

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[62] Clearance application (25 September 2026), ¶ 122(c).

81. Examine vendors' New Zealand cost base and the scale of business needed to sustain it. This shows whether a vendor could keep a local presence with only the remaining buyers.

IX. Efficiencies

82. The Parties claim that combining their RAN assets will reduce duplication of sites and equipment, lower maintenance and upgrade costs, and reduce power use.[63] They also claim faster 5G rollout and better coverage and quality. The estimated savings are redacted in the public application.[64]

83. The Commission takes efficiencies into account where they would be realised in a timely way, would not likely be realised without the merger, and would be passed on to customers sufficiently to prevent a substantial lessening of competition. It looks for variable cost savings and product enhancements.[65]

IX.A. The Claimed Savings May Be Mostly Fixed

84. The application describes savings mainly from removing duplicate sites and equipment and from maintaining fewer sites. Much of this appears to be fixed cost reductions, i.e., savings that do not vary with serving an extra customer or serving more traffic. However, any claimed split between fixed and variable savings is not public.

How to Assess this Effect

85. Review the claimed savings, split into fixed and variable costs, and how they were estimated. Variable-cost savings may directly strengthen incentives to reduce prices. Fixed-cost savings may also benefit consumers if they make additional rollout or quality improvements commercially viable. The Commission should examine the evidence for each mechanism.

86. Assess whether the cost savings would reduce the quality of the service provided.

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[63] Clearance application (25 September 2026), ¶¶ 48 and 211.

[64] Clearance application (25 September 2026), ¶ 49; NERA, *2degrees/One NZ RAN joint venture*, 23 September 2026 ("NERA report"), ¶ 15.

[65] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶¶ 3.119 to 3.121.

87. Review each Party's RAN operating and capital expenditure as a share of its total operating and capital expenditure, respectively.[66] This will help to judge the materiality of the cost savings.

IX.B. Cost Savings May Lead to Lower Prices

88. Whether cost savings reach consumers depends on, amongst other things, whether they lower the cost of an extra unit (marginal cost), the shape (curvature) of demand, and the strength of competition. If the savings mainly reduce fixed costs rather than marginal costs, they are unlikely to be passed through to consumers as lower prices. Even for savings that lower marginal cost, how much is passed through is an empirical question.[67]

89. Academic literature and industry studies demonstrate how these factors can be examined when assessing whether and to what extent cost savings reach consumers through lower prices. For example, market demand for mobile services has been estimated to be inelastic, at around −0.5 to −0.7,[68] while demand facing each operator is more elastic, with estimated margins of 33% to 40% in France.[69] Studies of spectrum licence payments, a largely fixed (sunk) cost, have found no evidence that they raised retail prices, consistent with limited pass-through of fixed-cost changes.[70] The extent of pass-through depends on the specific market and the magnitude and nature of the cost savings.

90. On network sharing, the studies NERA cites find that RAN sharing in Czechia, a geographic-split arrangement, was associated with lower prices.[71] However, a cross-country study NERA also cites found price reductions mainly from passive sharing, with no statistically significant price effect from active sharing.[72] The OECD notes that in

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66 NERA report, ¶ 8.

67 Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶ 3.122; E.G. Weyl and M. Fabinger, "Pass-Through as an Economic Tool," *Journal of Political Economy* 121(3) (2013), 528–583.

68 J. Hausman, "Efficiency Effects on the U.S. Economy from Wireless Taxation," *National Tax Journal* 53(3) (2000), 733–742.

69 M. Bourreau, Y. Sun and F. Verboven, "Market Entry, Fighting Brands, and Tacit Collusion," *American Economic Review* 111(11) (2021), 3459–3499, p. 3483.

70 E. Kwerel, "Spectrum Auctions Do Not Raise the Price of Wireless Services: Theory and Evidence," FCC Office of Plans and Policy (October 2000); M. Park, S.-W. Lee and Y.-J. Choi, "Does Spectrum Auctioning Harm Consumers? Lessons from 3G Licensing," *Information Economics and Policy* 23(1) (2011), 118–126.

71 NERA report, ¶¶ 17-25, describing Cojoc et al. (2020) and Maier-Rigaud et al. (2020).

72 NERA report, ¶ 29, describing Koutroumpis, Castells and Bahia (2023).

three-player markets 'less of the cost savings are competed away to the benefit of the consumer than in a market with four or more national wholesale operators'.[73]

How to Assess this Effect

91. Review analysis by the Parties of how much of the savings would be passed through to prices. This shows whether the Parties themselves expect consumers to benefit.

92. Examine the RANSA price terms, including whether and how often charges are reset as RANCo's costs change.

IX.C. Some Savings May Be Achievable Without a National RAN JV

93. Efficiencies are relevant only if they would not likely be realised without the merger, i.e., if the efficiencies are merger specific.[74] The Commission has said it will consider whether, without the JV, the Parties would continue as they are or seek alternative options.[75] The assessment should therefore distinguish savings attributable to the proposed JV from those likely to arise through existing sharing arrangements or plausible extensions of them.

How to Assess this Effect

94. Review the savings achievable through passive sharing or active sharing limited to rural areas, compared with the proposed nationwide JV. This would help identify which savings depend on extending active sharing into suburban and urban areas.

95. Assess the terms and coverage of the Parties' existing active sharing arrangements, and any plans developed before the RANCo proposal to extend them. This would inform which savings would likely arise without the JV.

96. Review any practical or commercial barriers to those alternatives, including evidence explaining why they would not deliver the claimed savings within a comparable timeframe.

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[73] OECD, *Wireless Market Structures and Network Sharing*, OECD Digital Economy Papers No. 243 (2014), p. 68.

[74] Commerce Commission, *Mergers and Acquisitions Guidelines* (May 2022), ¶ 3.119.

[75] Commerce Commission, *Statement of Preliminary Issues* (1 October 2026), ¶ 19.