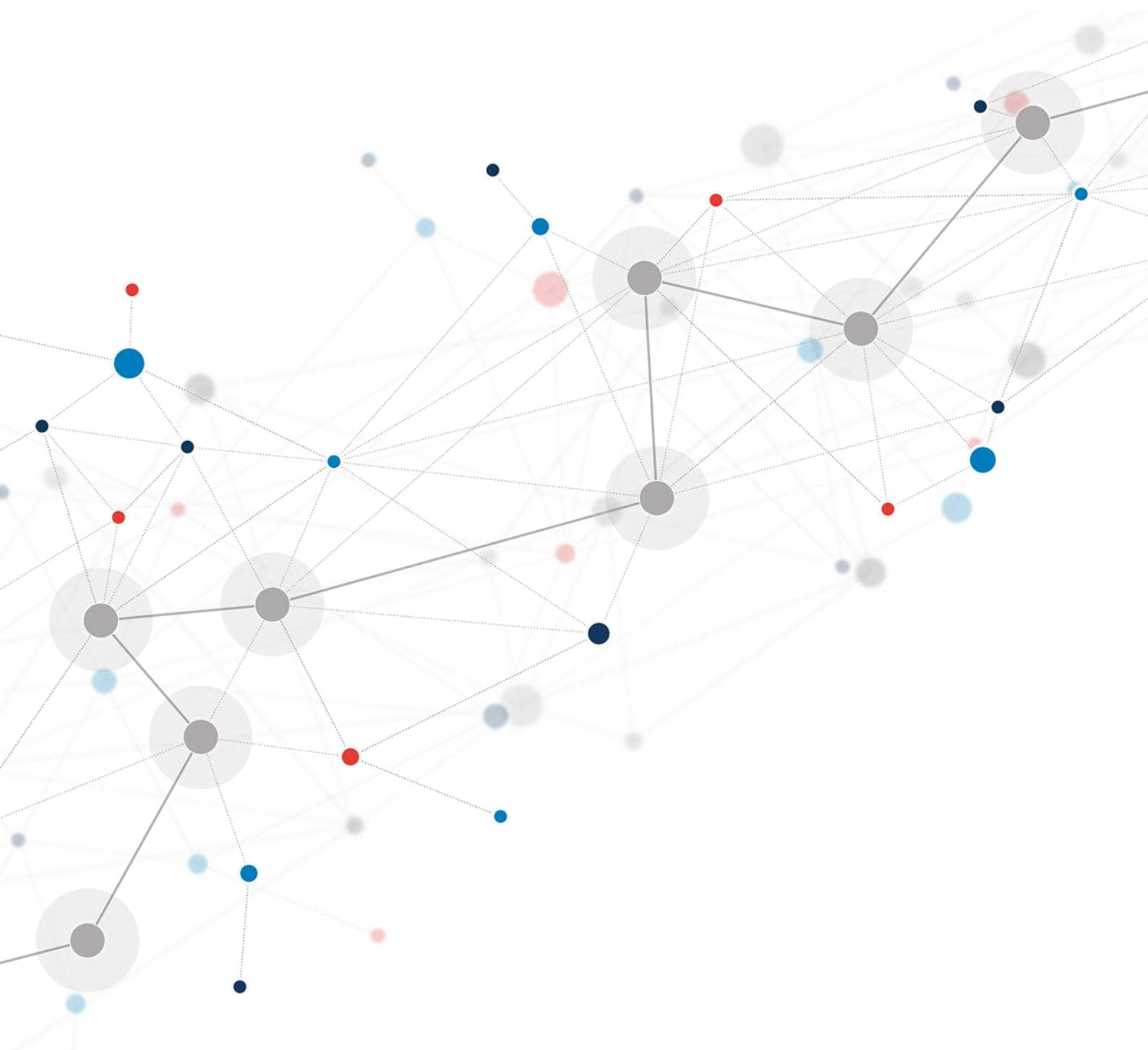

Competitive assessment of proposed One NZ / 2degrees RANCo

Paul Reynolds, Ciara Kalmus, and Gytautas Karklius
Compass Lexecon
14 October 2026



Contents

1	Introduction and summary	3
	Purpose of the report	3
	Summary of findings	3
2	Why network competition matters	6
3	International authorities' approaches	10
4	The JV would reduce competitive rivalry	15
	The likely counterfactual	15
	There is a significant risk that the JV would reduce network competition	16
	There is a significant risk that the JV would reduce retail competition	17
	There is a significant risk that the JV would reduce wholesale competition	19
5	Heightened risk of coordinated retail and wholesale mobile market outcomes	21
	The JV makes it easier to reach a coordinated position	21
	The JV makes it easier to sustain an agreement	23
6	Longer term risks of customer foreclosure of TowerCos	24

1 Introduction and summary

Purpose of the report

- 1.1 One New Zealand Group Limited (**'One NZ'**) and Two Degrees Mobile Limited (**'2degrees'**) announced plans to combine their mobile radio access networks (**'RAN'**) into a new, jointly owned business, RANCo (the **'JV'**) in August 2026. The Commerce Commission has invited comments on the likely competitive effects of the proposed JV in their Statement of Preliminary Issues of 1 October 2026 (**'SoPI'**).
- 1.2 Chapman Tripp has requested Compass Lexecon to provide our assessment of whether the JV has the potential to substantially lessen competition in a market in New Zealand. Compass Lexecon is a global economic consulting firm, particularly focused on antitrust and competition issues. The authors have advised operators and regulators on the competitive assessment of transactions and conduct in telecommunications markets and have worked for the Australian Competition & Consumer Commission and the UK telecoms regulator, Ofcom.

Summary of findings

Why network competition matters

- 1.3 Network competition is an important driver of quality parameters that matter to customers including indoor and outdoor coverage, data speeds and reliability as well as capacity expansion to meet growing data demand and to enable operators to offer more data at affordable prices. Competition leads operators to deploy new technologies more quickly and more widely, to densify their networks and utilise more spectrum on more sites so as to seek to gain a quality advantage over rivals and to avoid customers leaving to better networks.

International authorities' approaches

- 1.4 International authorities recognise that mobile network sharing can bring benefits, such as wider coverage, better quality and lower costs, but also that it can harm competition. The European Commission (**'EC'**), the Body of European Regulators for Electronic Communications (**'BEREC'**) and the OECD have identified risks that sharing can reduce operators' independence and incentives to invest, limit differentiation in coverage and quality, raise the variable cost of capacity and facilitate coordination. They consider that the effect of any arrangement depends on its type, depth and geographic scope and on the structure of the market, and that active sharing is more likely to restrict competition than passive sharing.
- 1.5 Consistent with this, authorities have generally allowed active RAN sharing either in markets with four operators, where a sufficient constraint from rival networks remains, or where sharing is limited to less densely populated areas. National active RAN sharing arrangements in three-operator markets are much rarer; we are aware of only two cases globally (in Belgium and Iceland) and a proposed arrangement being reviewed by the regulator in Norway.
- 1.6 Whether a particular arrangement is pro-competitive or harmful requires a detailed assessment of the specific arrangement within its market context, relative to the likely counterfactual.

Unilateral effects

- 1.7 The competitive assessment needs to be made relative to the likely counterfactual.
- 1.8 Absent the JV, we consider that the Parties would continue to operate independent RANs in at least the major cities, accounting for most of New Zealand's population. Network competition in these areas could also bring benefits to customers more widely because of national pricing.
- 1.9 The JV would reduce the number of independent networks from three to two. This is likely to create a significant risk of weaker incentives to invest in the network:
- a. network investment by the JV would only offer the prospect of winning customers from Spark, weakening their incentives to invest in coverage, capacity and new technologies compared with the current market where an operator's investment can attract customers from both other operators;
 - b. each Party would move closer to the position of an MVNO, competing mainly on price (subject to the floor created by the effective price for capacity), bundling and branding over a largely common network;
 - c. while the proposed JV allows for RANCo to undertake unilateral investments for either Party, the extent of such unilateral investments may be limited in practice given that RANCo enables the Parties to coordinate investments and may be further limited by aspects of how the jointly controlled RANCo charges for and undertakes such investments; and
 - d. Spark's incentives to invest may also weaken, as it could expect any network improvement to be readily matched by the JV.
- 1.10 We consider there is a significant risk that the JV would reduce retail competition:
- a. network coverage and quality are key dimensions of competition, particularly given that, as the Commerce Commission observes, price competition between the MNOs is limited;
 - b. the JV's cost savings would mainly arise in fixed costs and are therefore unlikely to be significantly passed through to customers in lower prices; and
 - c. there is a risk that usage-based charging for RANCo that would raise the Parties' marginal costs and create a price floor, a risk also identified by the OECD.
- 1.11 As for wholesale competition, MVNOs' choice of host network would fall from three independent networks to two, weakening their bargaining position in a market where MVNO penetration is already among the lowest in the OECD.
- 1.12 We do not consider that the countervailing factors or efficiencies would offset the effects of the JV:
- a. entry as an MNO is difficult and requires high levels of investment;
 - b. neither retail customers nor MVNOs would have meaningful countervailing buyer power; and
 - c. the claimed efficiencies are likely to be largely achievable through less extensive sharing and may be limited depending on the extent to which sites are decommissioned – moreover, the efficiency improvements are one-off (e.g. a step-reduction in costs) whereas network competition would instead create pressure for operators to continually strive to find new efficiency improvements and cost savings.

Coordinated effects

- 1.13 In our view, the JV would heighten the risk of coordinated outcomes in the retail and wholesale mobile markets, consistent with the risk identified by BEREC and the OECD that network sharing can facilitate coordination. The JV would make it easier for the MNOs to reach a coordinated position.
- a. It would reduce the number of independent network operators from three to two, and tie 2degrees, the MNO competing most strongly on price, to One NZ.
 - b. It would also substantially align the Parties' network coverage and quality, making their offers more homogeneous, and bring a significant share of their costs into common ownership, making their cost structures more symmetric. Depending on how RANCo charges each Party, for example whether charges vary with usage, the common per-unit network cost may also act as a price floor and focal point.
 - c. Finally, joint ownership of RANCo, joint purchasing of network services and joint investment decisions would create new interrelationships between the Parties.
- 1.14 The JV would also make any coordination easier to sustain.
- a. RANCo would give each Party a degree of ongoing visibility of the other's traffic, capacity requirements and rollout plans, making deviations, such as one Party growing volumes through aggressive pricing, easier to detect.
 - b. It would significantly limit network investment as a means of deviation between the Parties, since the main network decisions are likely to be taken jointly.
 - c. If Spark sought to deviate by investing in its network, the JV could respond more cheaply and quickly than either Party alone, reducing Spark's expected gain from doing so.

2 Why network competition matters

- 2.1 Investment by mobile operators in deploying mobile technologies and in expanding the reach and capacity of their networks has been the main driver of benefits to mobile customers, including making faster and better-quality services more widely available and achieving rapidly falling prices per gigabyte of data supplied.
- Opensignal data shows New Zealand's average mobile download speeds increased by over 80% between 2022 and 2025, including as a result of the deployment and take-up of 5G.¹
 - Tefficient data indicates that data usage per subscription per month in New Zealand grew by over 2.5 times between 2019 and 2025 while revenue per gigabyte fell by around 60% over the same period.²
- 2.2 Mobile network capacity fundamentally depends on the RAN equipment deployed, the number of sites on which it is deployed and the spectrum utilised by that equipment.³ As the Parties note: *"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."*⁴ The deployment of successive generation of RAN technology has brought large gains in spectral efficiency, much faster data transmission speeds and reduced latency.⁵
- 2.3 The deployment of capacity, technology and spectrum determines key aspects of network quality of importance to customers including:
- Coverage:** operators compete to offer consistent indoor and outdoor coverage to a high proportion of the population and land mass and to minimise local 'not-spots' of no or poor coverage.
 - Throughput:** operators compete in offering fast connections, in particular by reference to download and upload speeds.
 - Reliability:** operators also compete to offer reliable connections, including minimising congestion and network outages.
- 2.4 The UK regulator, Ofcom, has recognised that *"while coverage is a prerequisite for connectivity, the quality of mobile connectivity is becoming increasingly important as services used by consumers become more demanding"*.⁶

¹ Commerce Commission, *2025 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 29 June 2026, Figure 5.4.

² Tefficient, [Industry analysis #1 2026](#) and [Industry analysis #2 2020](#).

³ Operators may deploy RAN equipment at a particular site that uses some or all of its available spectrum.

⁴ RANCo JV Clearance Application, footnote 66.

⁵ For example, see ITU, [Recommendation ITU-R M.2083-0](#), 2015, Figure 3.

⁶ Ofcom, UK Connected Nations Report 2022, page 39.

-
- 2.5 Studies have found that consumers attach high valuations to transmission speeds, data allowances, price and latency.⁷
- 2.6 High network quality can also bring wider benefits including:
- a. mobile networks that offer faster and more reliable data connections offer a greater competitive constraint on the supply of fixed services; and
 - b. enabling innovative business services such as the integration of the Internet of Things (machine-to-machine communications) and computation that is expected to transform transport, manufacturing, commerce and public services. For example, the UK Government has noted: *“Significant economic and social value can be gained from the widespread deployment of 5G networks. These networks will deliver faster, more reliable and flexible networks that have the potential to transform key sectors across the economy.”*⁸
- 2.7 An operator that builds a reputation for high quality will be more successful in attracting and retaining customers. Conversely, where operators fall behind or develop a reputation for poor network quality, they can face a significant loss of customers. For example, Vodafone in Australia in 2010 entered a period of poor network quality, including widespread dropped calls, slow data speeds and coverage blackspots that led to two million customers leaving the network between 2010 and 2013.⁹ Such network competition can lead operators to race to deploy new technologies faster and more extensively as well as to build better-quality, high-capacity networks to seek to attract customers from rivals as well as to limit their customer base from switching to better networks.
- 2.8 Ofcom assessed the relationship between mobile market structures and total market investment and service quality.¹⁰ Ofcom notes that the impact of a particular transaction will depend on its specific circumstances including the prevailing market conditions.¹¹ In terms of more general relationships, Ofcom found that:
- a. changes in network concentration can affect investment and quality via a number of different effects including by affecting operators’ ability and incentive to invest in their networks,¹² by impacting prices and thus usage and potentially congestion and by impacting efficiency in the utilisation of spectrum;
 - b. total market investment is lower in more concentrated markets; and
 - c. there is no evidence that quality (as measured by average download speeds) is higher when markets are more concentrated.

⁷ [Rabbani et al. \(2024\)](#); [Czajkowski et al. \(2024\)](#); and [Ebert & Winzer \(2024\)](#).

⁸ UK Government, *5G supply chain diversification strategy*, 7 December 2020.

⁹ News.com.au, [“How Vodafone came back from Vodafail”](#), 28 August 2015.

¹⁰ Ofcom’s economics discussion paper, *Market structure, Investment and Quality in the mobile industry*, 2021.

¹¹ For example, evidence indicates that four-to-three mobile mergers are less likely to be harmful (i.e., sufficient competition is preserved) and bring quality benefits (see Padilla, J. et al, “Do four-to-three mobile mergers harm consumers? A review of post-merger effects and concentration studies”, ECLR 2024 (45)).

¹² For example, “competition could lead firms to invest in higher quality and/or new products in order to gain a competitive advantage over rivals which allows them to earn a positive return, or to avoid being left behind as others invest”, while ‘too much competition’ may lower expected returns to investment which could limit investment if returns are insufficient.

- 2.9 Ofcom also assessed the relationship between mobile market structures and prices and found that:¹³
- prices were between 7.3% and 9.2% lower in countries where there are a greater number of operators; and
 - prices were 10.7% to 12.4% lower in countries where a disruptive player was present.
- 2.10 The New Zealand market evidence shows the beneficial impact of 2degrees' entry as a network operator. 2degrees was an important disruptor of the earlier duopoly.
- 2degrees has described the impact of its entry on consumers and competition as: *"2degrees halved the cost of prepay on entry and prices have continued to fall. The Reserve Bank has even referred to this as the '2degrees effect'. Prices have gone from near the highest in the OECD to being well below the OECD average, including for each of low, medium and very high data bundle users. 2degrees – and consumers – are constantly reacting to price changes and new products."*¹⁴
 - The Commerce Commission's 2025 Telecommunications Monitoring Report notes that *"2degrees maintained the lowest or equal-lowest prices across most postpaid data tiers, with Spark only matching 2degrees at the upper end and One NZ generally positioned higher"*.¹⁵
 - Prior to 2degrees' entry, New Zealand mobile operators were relatively late in launching 3G (i.e., Vodafone NZ in 2005¹⁶ and Spark in 2009,¹⁷ compared with launches in Japan in 2001 and Austria in 2002).¹⁸ However, following 2degrees' entry, 5G was launched in New Zealand in 2019, the same year as it was initially launched globally.¹⁹
 - Opensignal ranked New Zealand's mobile network quality in 2025 as sixth in the East Asia and Pacific region and seventh amongst large land area markets.²⁰ Opensignal also found that 2degrees leads the awards count for different quality parameters, although its 5G coverage experience trails the market leaders.²¹
- 2.11 New Zealand now has three sustainable network operators with Spark and One NZ the dual-leaders and 2degrees gradually growing its share (see Figure 1).²² The three operators share network in

¹³ Ofcom, A cross-country econometric analysis of the effect of disruptive firms on mobile pricing, research document, published 15 March 2016.

¹⁴ 2degrees submission to the Commerce Commission's Mobile Market Study, October 2018.

¹⁵ Commerce Commission, *2025 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 29 June 2026, p. 227.

¹⁶ Vodafone NZ [media release](#), 10 August 2005.

¹⁷ MobileWorldLive, "[Telecom New Zealand to launch 3G next month](#)", 23 October 2009.

¹⁸ NTT DOCOMO, [corporate history](#) and RCRWirelessNews, "[Mobikom Austria deploys UMTS network](#)", 25 September 2002.

¹⁹ One, "[Vodafone 5G launch marks day one of new ownership](#)", 1 August 2019.

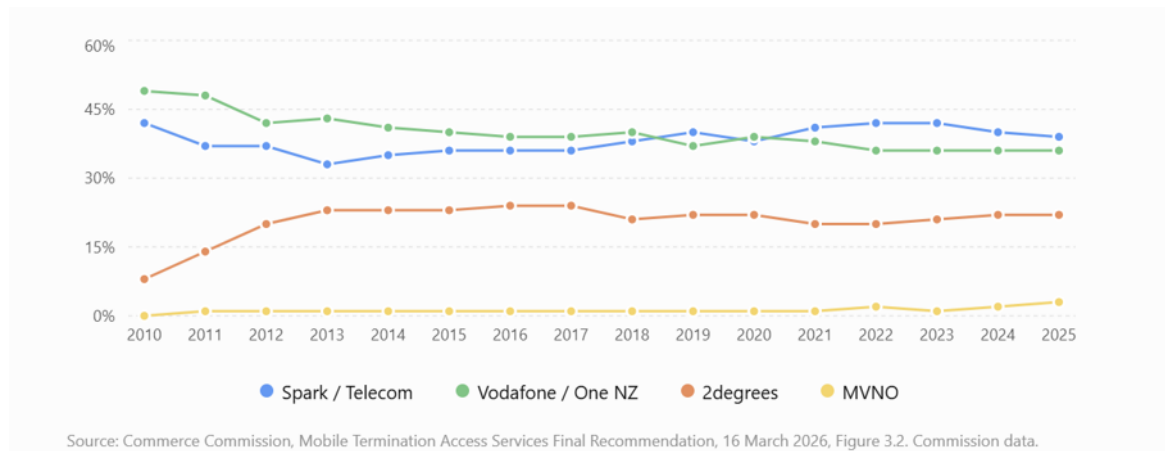
²⁰ Opensignal, "[Global network excellence index Q3 2025](#)".

²¹ Opensignal, "[New Zealand – Mobile network experience report](#)", October 2025.

²² Telcowatch Q3 2026, estimates that 2degrees grew its market share from 26% to 27% over the year to Q3 2026.

rural areas as part of the Rural Connectivity Group ('RCG').²³ The current market is an important guide to the likely counterfactual as we will come back to in Section 4.

Figure 1: NZ Retail mobile market shares



2.12 In addition, there is a small MVNO segment. With respect to the competitive constraint of MVNOs, without their own networks, MVNOs have much less scope for differentiation on quality²⁴ and, even with respect to pricing, their competitiveness is substantially dependent on the terms that they are able to secure from their host operator. As the EC noted in its Masmovil/Orange decision:²⁵

“First, MVNOs are dependent on the wholesale price charged by the host MNO when designing their own tariff plans.”

“MVNOs are reliant on the quality of their host network to provide services and therefore are not able to differentiate their retail services from those of the host MNO as regards quality or technical innovation.”

2.13 In the next section, we consider international authorities’ approaches to the assessment of mobile network sharing arrangements and transactions. In the following sections, we assess the potential competitive effects of the JV.

²³ As such, 4G outdoor coverage is less of a competitive differentiator in New Zealand although the density of the 4G RAN will impact signal strength and, thus, the consistency and reliability of the quality of coverage experienced by customers. A poor signal typically results in a poor experience, patchy coverage (i.e., impacted by obstacles) and with calls dropping out and slow or unresponsive data connections. Signal strength also impacts other dimensions of quality including the speeds received.

²⁴ Potentially, limited network service differentiation may be possible (i.e., within the capacity and technology limits of the RAN of the host network) where an MVNO has its own core network. The core network manages control and signalling. MVNOs with their own core network are called ‘Full MVNOs’ while MVNOs without their own core network are called ‘Light MVNOs’. We understand that no New Zealand MVNO has its own core network.

²⁵ EC, [Case M.10896 – ORANGE / MASMOVIL / JV](#), 2024, paragraphs 484-513.

3 International authorities' approaches

- 3.1 In this section, we provide an overview of the approaches of international authorities to sharing arrangements as well as responding to comments regarding international sharing arrangements in the RANCo JV Clearance Application.
- 3.2 The EC recognises that the assessment of mobile network sharing arrangements requires a case-specific assessment including balancing potential benefits and risks.²⁶
- a. The EC notes potential benefits if sharing leads to earlier and/or wider coverage, e.g. an operator being able to offer competition in areas where it would not otherwise be present, or cost savings which flow through to customers.
 - b. However, the EC also recognises that sharing can limit network competition which, in turn, may limit retail and wholesale competition by impacting the number, location and amount of installed capacity of sites. This can have implications for quality of service and pricing.
 - c. Sharing can also reduce the parties' decision-making independence and limit their ability or incentives to engage in infrastructure competition with each other and “[t]herefore, mobile infrastructure sharing agreements – because of their effects on the structure of the market – can harm final consumers by leading to less choice, lower quality of services, as well as delays in innovation”.²⁷
 - d. The EC considers that whether or not a particular sharing arrangement will harm competition can depend on:
 - i. the type and depth of sharing;
 - ii. the scope of the shared services and technologies and the duration and structure of the cooperation;
 - iii. the geographic scope and market coverage of the sharing arrangement;
 - iv. the characteristics and structure of the relevant market; and
 - v. the nature of any other sharing arrangements in the market.²⁸
 - e. While the EC considers that a sharing arrangement to not harm competition must “as a minimum” retain independent core networks, retail and wholesale businesses and spectrum strategies, not have disincentives for unilateral deployments and upgrades and prevent the exchange of commercially sensitive information, the EC considers that “active sharing agreements are more likely to give rise to restrictive effects on competition” than passive sharing.²⁹

²⁶ See, for example, EC Horizontal Cooperation Guidelines, 2023, paragraphs 258-266.

²⁷ EC Horizontal Cooperation Guidelines, 2023, paragraph 263.

²⁸ EC Horizontal Cooperation Guidelines, 2023, paragraph 264.

²⁹ EC Horizontal Cooperation Guidelines, 2023, paragraph 266(b).

-
- 3.3 BEREC produced a report summarising European regulatory assessments including potential benefits and drawbacks of sharing arrangements. BEREC identified potential benefits of cost savings, improved efficiency, potentially enabling an operator to offer services in an area it would not otherwise be present, and environmental benefits. However, BEREC also identified competitive risks including:³⁰
- a. sharing can reduce incentives to invest in an operator's own network if the benefits of such investments are shared with the other parties involved;
 - b. sharing could facilitate coordination (or tacit collusion) and in some cases might lead to delays in deployment by adding a layer of bureaucracy or additional costs; and
 - c. there could be reduced network resilience if end users are unable to switch to an alternative network if their host network is unavailable.
- 3.4 BEREC noted that in areas where full infrastructure-based competition is reasonably feasible, *"infrastructure-based competition is very likely more beneficial than active sharing"* and, even in moderately populated areas, *"a certain degree of infrastructure-based competition in these areas is appropriate."*³¹ BEREC notes that in some cases active sharing may be objectively necessary for competition, i.e., where competitors are unable to replicate the parts of the RAN in those areas so as to exercise a competitive constraint on the market.³²
- 3.5 The OECD similarly noted potential benefits of sharing including if it enables coverage to be extended, potentially lower prices depending on the state of competition and how the sharing affects competitive conditions and environmental benefits. The OECD also noted risks of:³³
- a. Unilateral effects in terms of:
 - i. a reduced incentive to compete if (fixed) costs are shared in proportion to traffic, as this would result in *"the incremental cost faced by each MNO for providing additional capacity [being] in effect the average cost of capacity, which is likely to be higher than the incremental cost of capacity absent the sharing arrangements"*,³⁴ and
 - ii. a reduced incentive to price aggressively if *"the arrangements result in less spare capacity being available"*.³⁵
 - b. Potential coordination particularly in relation to the extent and quality of coverage or denying new entrants access to sites.
- 3.6 In practice, authorities have allowed Multi-Operator Radio Access Network ('**MORAN**') agreements in a number of countries.
- a. Many of these are in four operator markets (e.g. Denmark, France, Poland, Spain and Sweden) where there was expected to be a sufficient remaining constraint from rival networks.

³⁰ BEREC, Common position on infrastructure sharing, 2019, p.10-11.

³¹ BEREC, Common position on infrastructure sharing, 2019, p.19.

³² BEREC, Common position on infrastructure sharing, 2019, p.21.

³³ OECD, Wireless market structures and network sharing, 2015, p.68.

³⁴ OECD, Wireless market structures and network sharing, 2015, p.68.

³⁵ OECD, Wireless market structures and network sharing, 2015, p.68.

- b. MORAN agreements have also been allowed where they are limited to less densely populated areas (or limited to only the latest technology being deployed). In such cases, the cost savings from sharing may support extending coverage to areas that the operators may not find it economic to cover unilaterally. In addition, with nationally uniform pricing, competition in the urban areas where a large share of the population resides may help discipline prices charged. The ACCC decided to allow proposed network sharing between Optus and TPG in rural areas, noting that *"The competition impacts of the agreements are likely to be limited to geographic areas where TPG is not currently a significant competitor and is unlikely to become one in the future."*³⁶ This contrasts with the situation of One NZ and 2degrees that are both significant and sustainable competitors.
- c. Permanent MORAN agreements covering the national land area are much rarer in three operator markets. Globally, we are aware of such agreements in Iceland and Belgium as well as a proposed agreement in Norway currently being assessed by the Norwegian competition authority.
 - i. In Iceland (with a population of less than 0.5 million), national RAN sharing between two of the three operators was allowed subject to a condition of providing regulated wholesale access for MVNOs.³⁷
 - ii. The Belgian Competition Authority assessed the national active network sharing between Proximus and Orange (the number 1 and number 2 players), noting concerns of Telenet with the loss of infrastructure competition and an increased risk of coordination between the MNOs but allowed the sharing based on safeguards and unilateral mechanisms.³⁸
 - iii. The Norwegian Communications Authority (NKOM)'s preliminary assessment is that the proposed sharing between Telia and Ice risks coordinated effects in the wholesale market including denial of access and may need a wholesale access condition.³⁹
 - iv. While Tele2 and Bite proposed network sharing in Latvia and Lithuania, we understand that this was discontinued because of the conditions required by regulatory authorities (i.e., excluding larger cities and offering regulated MVNO access).⁴⁰

3.7 The RANCo JV Clearance Application makes a number of references to the network sharing arrangement between O2 CZ and T-Mobile CZ. It should be noted that this arrangement excludes the two largest Czech cities (Prague and Brno) with other cities having populations less than 300,000. In addition, the sharing arrangement was only allowed by the EC because of a range of commitments including to modernise RAN equipment to enable more flexibility and independence in where each operator deploys specific technology and spectrum bands.⁴¹

3.8 The RANCo JV Clearance Application also references the proposed network sharing between TIM and Fastweb/Vodafone (two of the four Italian mobile network operators), which included active and spectrum sharing but was limited to municipalities with fewer than 35,000 inhabitants. The Italian

³⁶ ACCC media release, "ACCC will not oppose Optus and TPG regional mobile network and spectrum sharing", 5 September 2024.

³⁷ Post and Telecom Administration in Iceland, Annual Report 2015, p.16.

³⁸ Decision No. BMA-2022-P/K-45-AUD of 23 December 2022 in case MEDE-p/K-19/0035.

³⁹ Overføring av frekvenstillatelser fra Lyse Tele AS og Telia Norge AS til felleseid infrastrukturselskap for radionett.

⁴⁰ Tele2 press release, "[Tele2 wins Latvian 5G frequencies](#)", 16 December 2021 and [Lithuanian regulator's decision](#).

⁴¹ EC press release, "Commission accepts commitments from T-Mobile CZ, CETIN and O2 CZ on Czech network sharing", 11 July 2022.

competition authority, AGCM, has stopped the sharing arrangement until it completes its investigation.

3.9 AGCM states that “...the parties are sharing significant elements of their RAN planning strategies, which are one of the main competitive tools for mobile operators”.⁴² It is particularly concerned about the arrangement damaging TIM and Fastweb+Vodafone's willingness to invest in their networks.⁴³ AGCM states:

- a. “...it appears likely to significantly limit competition aimed at improving the respective infrastructures...[and] reduced competitive pressure, in terms of infrastructure and frequency, can influence various competitive parameters – such as, for example, the number, location and installed capacity of sites – with effects on quality of service. In other words, both their ability and their incentives to differentiate their respective offerings, for example by providing wholesale and/or retail customers with greater capacity or broader and more efficient network coverage, are severely limited.”
- b. “The Agreement also appears likely to reduce the Parties' decision-making independence and limit their ability and incentives to compete with each other, including in terms of prices. Through the joint venture, the Parties will jointly determine a significant component of their production costs, with potential implications for prices in the wholesale and retail markets. Furthermore, the economic compensation model, in its possible declinations, envisaged in the Agreement may further reduce each Party's incentives to compete aggressively with the other.”
- c. “...the Agreement, by leading to a convergence of the qualitative characteristics of the service offered by each of the two Parties and of the related costs, may increase the risk of coordination that restricts competition”, particularly noting “the high level of transparency regarding the management of the main strategic industrial levers, costs, and other sensitive information that would be achieved within the joint venture”.
- d. “from a perspective of dynamic competition, the Agreement could reduce the incentives for each Party to invest individually in its own network, even in the medium to long term, in order to improve its performance and implement next-generation technologies, with repercussions in terms of delays in innovation to the ultimate detriment of end users.”

3.10 There have been many transactions consolidating ownership of passive assets although sometimes with requirements to divest overlapping assets.⁴⁴

3.11 The Parties rely on Koutroumpis, Castells and Bahia (2023), which assesses the impact of mobile network sharing in Europe during the 2000-2019 period, looking at 140 mobile operators in 29 countries.⁴⁵ In our view, the study provides limited support for the conclusion that the JV would not substantially lessen competition, for the following reasons.

- a. The authors themselves find that effects depend on the specific arrangement. The paper concludes that these effects materialised heterogeneously, with the impact of network sharing depending on the type of sharing, the technology cycle in which it is entered into as well as the

⁴² The Italian Competition Authority (AGCM), Case I882: TIM / Fastweb RAN Sharing Agreement (Order no. 31940), paragraph 21.

⁴³ The Italian Competition Authority (AGCM), Case I882: TIM / Fastweb RAN Sharing Agreement (Order no. 31940), paragraphs 26-32.

⁴⁴ See, for instance, UK CMA, *Cellnex/the passive infrastructure assets of CK Hutchison*, 3 March 2022.

⁴⁵ Koutroumpis, P., P. Castells, K. Bahia. “To share or not to share? The impact of mobile network sharing for consumers and operators”, *Information Economics and Policy*, 65 (December 2023).

market position and size of the operators entering the agreement. This is consistent with the EC's view that sharing arrangements require a case-specific assessment (see paragraph 3.2).

- b. The authors did not find statistically significant results for price reductions, profits and capex reductions for active sharing as acknowledged by RANCo in their submission, while they find statistically significant positive effects for 4G coverage and download speeds (with stronger effects for smaller operators).
- c. The sample is unlikely to be representative of the JV. The study covers European agreements over two decades, many of which are likely to have been in four-operator markets or were limited in geographic scope (the list of agreements is not disclosed in the paper).

3.12 The Parties also rely on two papers analysing the network sharing agreements between O2 CZ and T-Mobile CZ: Cojoc et al. (2020) and Maier-Rigaud et al. (2020). Both conclude that the Czech agreements reduced prices and increased network quality and consumer welfare. In our view, these papers provide little support for the Parties' position, for the following reasons.

- a. The papers were prepared in the context of the Czech investigation, by consultants advising one of the parties and we understand were not peer reviewed. The same economic consultancy is advising the Parties in this transaction. Cojoc et al. (2020) states that it draws on consulting work the authors have done on behalf of a mobile network operator in response to allegations of anti-competitive behaviour in the EC case AT.40305.
- b. Cojoc et al. (2020) distinguishes the Czech arrangement from a joint venture such as RANCo. The Czech agreement excluded the major cities and was organised on a geo-split basis, under which each operator ran the shared network in its own half of the country. The authors contrast this with a joint venture, where strategic decisions relating to investments in infrastructure and the deployment of technology are made to maximise the joint profits of all sharing parties. RANCo is a jointly owned entity, i.e., precisely the structure the authors distinguish. Their findings therefore do not speak to the effects of the JV. When the authors model the Czech agreement as a JV, their model does not produce realistic results.
- c. Maier-Rigaud et al. (2020) also focus on the Czech network sharing which, as noted above, differs in important respects from the proposed JV. The authors acknowledge that they "*do not directly estimate the effect of the NSA on the sharing partners' incentive to invest in mobile infrastructure*". The authors do not observe or measure network quality directly. They infer a quality improvement from any increase in demand for the two sharing parties after the agreement. Such an increase could reflect other party-specific factors, such as marketing or bundling, rather than network quality. In fact, the EC preliminarily concluded that the agreement resulted in a lower quality of service for T-Mobile's customers in parts of the country due to the delayed deployment of carrier aggregation functionality and the lack of roll-out of LTE2100.⁴⁶
- d. The results in Maier-Rigaud et al. (2020) regarding the effect of the agreement on prices are not statistically significant for the smallest usage basket and only weakly significant for the medium usage basket. For the large usage basket, a common trend assumption is not satisfied for the first control group, used for their 'mainline' results, suggesting it is not an appropriate basis to estimate the effects of the Czech sharing by comparison.

⁴⁶

EC, Case AT.40305 – *Network sharing – Czech Republic*, paragraphs 104-106.

4 The JV would reduce competitive rivalry

- 4.1 In this section, we assess the potential unilateral effects of the proposed JV on competition between 2degrees and One NZ.⁴⁷ As a result of the JV, One NZ and 2degrees will cease to operate independent RAN infrastructure, thereby limiting competition in network quality. New Zealand will move from having three competing networks back to having just two network competitors. This risks harming consumers by leading to less choice, lower quality of service, lower or delayed innovation and potentially higher prices.
- 4.2 The Commerce Commission notes that “[t]o assess whether a substantial lessening of competition is likely requires us to compare the likely state of competition if the merger proceeds (the scenario with the merger, often referred to as the factual) with the likely state of competition if it does not (the scenario without the merger, often referred to as the counterfactual)”.⁴⁸
- 4.3 We assess below:
- a. the likely counterfactual;
 - b. the reduction in network competition;
 - c. the likely effect of the JV on retail competition; and
 - d. the likely effect of the JV on wholesale competition.

The likely counterfactual

- 4.4 The Commerce Commission notes that the Parties submit that, without the JV, they would continue to own and operate their respective RAN assets independently.⁴⁹ We assume that this would also include retaining the current limited network sharing in rural areas under the RCG and 2degrees’ use of around 200 One NZ’s rural towers.⁵⁰
- 4.5 As shown by international examples, we consider that a range of alternative sharing arrangements to the JV are possible that would retain three independent networks in, say, the major population centres and/or for some technologies. Such alternative sharing arrangements, that are less extensive than, and often not as permanent as, the JV, would be likely to enable greater network competition while potentially also resulting in lower cost savings than the JV. Accordingly, if the Commerce Commission were to find that the proposed JV is likely to have the effect of substantially lessening competition, then it would be open to the Parties to propose a more limited form of sharing that better preserves competition.

⁴⁷ Commerce Commission, SoPI, paragraph 20.1.

⁴⁸ Commerce Commission, Mergers and Acquisitions Guidelines, May 2022, paragraph 2.29.

⁴⁹ Commerce Commission, SoPI, paragraph 18.

⁵⁰ B. Bennett, “Download Weekly: 2degrees, Vodafone to share infrastructure”, <https://billbennett.co.nz/download-weekly-2degrees-vodafone-to-share-infrastructure/>.

There is a significant risk that the JV would reduce network competition

- 4.6 Under the JV, the Parties would share the same active equipment on their base stations, while retaining their own core networks and spectrum. This is known as MORAN sharing. The JV would thus reduce the number of independent network competitors from three to two.
- 4.7 With fewer network competitors, there is a risk that the Parties and Spark would have significantly weaker incentives to invest in improving their networks.
- 4.8 In a market with competing networks, an important driver of investment is the prospect of gaining a lead over rivals. Operators can win subscribers from rivals by: offering consistent, reliable indoor and outdoor coverage; deploying new technologies offering quality improvements faster and more widely; and by ensuring the capacity to meet demand and support pricing to grow demand. Under a common MORAN network, the Parties' customers are likely to be predominantly served from the same sites, with the same equipment and the same rollout plan.
- 4.9 While the proposed JV includes a provision for each Party to unilaterally deploy network assets via RANCo, such investments may turn out to be limited. The JV creates a vehicle for the Parties to jointly make investment decisions. The Clearance Application states that *"there is a KPI regime and an express bar on revising KPIs by reference to RANCo's capex availability."*⁵¹ As such, the JV creates a 'focal point' for coordination of investment decisions between the Parties and risks displacing each Party engaging in competing investment strategies. The precise design and operation of RANCo may further reduce incentives for unilateral investments. Such unilateral investments will be made via and charged by RANCo, a JV that is owned and controlled by both Parties. It is also not clear that if one Party were to have RANCo make a unilateral investment that turns out to be successful competitively, whether the other Party would be able to also access capacity of those assets. If the other Party could gain access to those assets on the same terms as the shared network, the investing Party would bear the cost and risk of the investment while its rival could share in the benefits once they became apparent, removing much of the incentive to invest unilaterally in the first place.
- 4.10 In its assessment of the Czech network sharing arrangement, the European Commission also noted a concern that the joint operation and control gives one party early information on the other's investment plans enabling them to be matched. The EC considered that the risk of such information exchange *"disincentived [sic] the Sharing Parties to engage in unilateral deployment and differentiate themselves on the basis of their network"*.⁵²
- 4.11 Thus, in practice, residual differentiation may be limited to spectrum holdings, core network features and retail offers. Each Party would move closer to the position of an MVNO, competing mainly on price within the scope allowed by the effective wholesale price of capacity, bundling and branding over a largely common wholesale input.
- 4.12 Currently, network investments by One NZ and 2degrees can offer returns from attracting customers away from the two competing operators. Investments by the JV instead would only offer the potential to attract customers from Spark.
- 4.13 2degrees' CTO in 2020 stated that *"The three mobile operators have invested in their own infrastructure in urban areas. In remote and rural areas, there are fewer customers, so recovering the cost of a new duplicate cell site becomes very challenging"* and *"it could make sense to bring the concept of infrastructure sharing over to 5G development, but also noted that having a*

⁵¹ RANCo JV Clearance Application, p.71.

⁵² EC, Case AT.40305 – *Network sharing – Czech Republic*, paragraph 126.

foundation layer of competing mobile infrastructure was important to ensure operators continued to drive each other to invest and innovate.”⁵³

- 4.14 A two-network market may also reduce Spark’s investment incentives. In particular, it makes it easier for Spark to position itself with respect to one alternative network including in deciding whether or not to match improvements by the other network. The JV’s greater scale would make it more likely that it would match any network improvement of Spark. This can risk both networks investing less if each perceives that the other’s response would leave it with no competitive advantage. A three-network market is inherently less stable. We address the risk of coordination in Section 5 below.
- 4.15 The risk of less network investment has also been found by international authorities (see Section 3 for more detail):
- a. When evaluating the proposed network sharing between TIM and Fastweb/Vodafone, the AGCM raised similar concerns regarding network competition, which can in turn impact the number, location and installed capacity of sites with effects on the quality of services.⁵⁴
 - b. The EC noted the importance of network competition in Vodafone Italia / TIM / INWIT JV (2020): *“In the framework of the Commission’s preliminary investigation into the network sharing Telecom Italia and Vodafone have decided to scale down their active sharing, leaving out the most densely and highly populated cities and centres of economic importance, corresponding to over 30% of the Italian population and more than 33% of data traffic. The Commission welcomes this development, which increases the areas (and the percentage of Italian population) in which Telecom Italia and Vodafone will continue to compete on network quality”*.⁵⁵
 - c. Permanent MORAN agreements covering the national land area are much rarer in three operator markets,⁵⁶ and BEREC identified that sharing can reduce incentives to invest in an operator’s own network if the benefits of such investments are shared with the other parties involved.⁵⁷

There is a significant risk that the JV would reduce retail competition

Theory of harm

- 4.16 We consider there is a significant risk that the JV would reduce competition in the retail mobile market, for the reasons set out below.
- 4.17 First, as set out in the sub-section above, the JV would remove rivalry between the Parties on network coverage, capacity and quality, and reduce their incentives to invest to gain an advantage over each other. These are key dimensions of retail competition. Their importance is reinforced by

⁵³ eCommerceNews New Zealand, “2degrees unveils new infrastructure sharing agreement, passes \$1b milestone”, 24 June 2020, available at: <https://ecommercenews.co.nz/story/2degrees-unveils-new-infrastructure-sharing-agreement-passes-1b-milestone>.

⁵⁴ See paragraph 3.9a above.

⁵⁵ EC, “Mergers: Commission clears acquisition of joint control over INWIT by Telecom Italia and Vodafone, subject to conditions”, press release IP/20/414, 6 March 2020, available at: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_414.

⁵⁶ See paragraph 3.6c above.

⁵⁷ BEREC, Common position on infrastructure sharing, 2019, p.10-11.

the limited extent of price competition: the Commerce Commission observes that pricing among the MNOs remains “*largely uniform, with limited price-based competition*”.⁵⁸

- 4.18 Coverage continues to be an important dimension of retail competition. Of customers that have switched provider, 25% chose their new provider because they claimed to have better coverage than their old provider.⁵⁹ This shows network quality drives customer choice. The Commerce Commission has also asked MNOs to standardise coverage maps so consumers can compare coverage between providers and exit without penalty if they run into coverage problems.⁶⁰
- 4.19 The JV would also limit the scope for the operators to compete against each other by expanding capacity so as to offer faster speeds and to offer customers more data at more affordable prices.
- 4.20 Second, Forsyth Barr estimates that RANCo would lead to both Parties reducing their capex with the effect of increasing free cash flow, rather than re-investing savings into additional capex.⁶¹
- 4.21 The savings are unlikely to be materially passed through in lower prices. Pass-through depends mainly on changes in marginal cost. The JV’s savings would likely come largely from shared sites and equipment providing coverage, which are fixed costs.
- 4.22 Third, the way the JV charges the Parties for capacity may also create a higher effective floor for prices. Where an MNO owns its network, a large share of network costs is fixed and sunk, so the marginal cost of serving additional customers is low. Depending on how RANCo charges each Party, for example whether charges vary with usage, there is a risk that part of these costs would become variable for each Party, raising marginal costs and creating a floor on retail and wholesale prices that does not exist today. The OECD has identified this risk of sharing arrangements: if (fixed) costs are shared in proportion to traffic, this would result in “*the incremental cost faced by each MNO for providing additional capacity [being] in effect the average cost of capacity, which is likely to be higher than the incremental cost of capacity absent the sharing arrangements*”.⁶² Further, we would expect that over time, as the Parties differ in their success in attracting retail customers that the Parties will differ in their utilisation of the network. So even if it is not the case initially, such traffic imbalances are likely to lead to the wholesale charges in time that vary with the amount of capacity used as otherwise one Party would effectively be cross subsidising the other.

Countervailing factors and efficiencies

- 4.23 In line with the Commerce Commission’s Guidelines, we assess whether entry and expansion, countervailing buyer power or efficiencies could offset any negative effects from the JV.⁶³
- 4.24 We consider that entry by a new operator is unlikely given the network investments required and the challenge of building a sufficient customer base over which to recover those investments in a market of the size and maturity of New Zealand’s mobile market. The JV may also make entry more

⁵⁸ Commerce Commission, *2024 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 30 June 2025, p. 11.

⁵⁹ Commerce Commission, “ComCom pushes telcos for better mobile coverage information with ‘exit right’”, media release, available at: <https://www.comcom.govt.nz/news-and-media/news-and-events/2024/comcom-pushes-telcos-for-better-mobile-coverage-information-with-exit-right/>.

⁶⁰ Commerce Commission, “ComCom pushes telcos for better mobile coverage information with ‘exit right’”, media release.

⁶¹ Forsyth Barr, Splitting the Bill, 28 August 2026: “*We believe this deal could be meaningfully positive for One NZ, lowering its capex and increasing free cash flow and dividends to IFT*”.

⁶² OECD, Wireless market structures and network sharing, 2015, p.68.

⁶³ Commerce Commission, Mergers and Acquisitions Guidelines, May 2022, paragraphs 3.91-3.92.

challenging, as it would lower the Parties' network costs relative to a standalone entrant and reduce the number of independent networks from which an entrant could obtain wholesale access or roaming while building its own network.

- 4.25 In relation to countervailing buyer power, retail customers have no meaningful buyer power. They are numerous and individually small, and switching is low: only 5% of consumers changed providers in 2024.⁶⁴
- 4.26 In our view, the claimed efficiencies are unlikely to offset the loss of rivalry, for three reasons:
- They could significantly be achieved through less extensive sharing.* The Parties already share infrastructure in rural areas through the RCG and their 2020 agreement (see paragraph 4.4 above). International precedent shows that active sharing outside major urban areas can deliver substantial cost savings while still preserving network competition where most of the population lives and with national pricing enabling the benefit of that competition to extend to all customers.
 - Cost savings are largely one-off.* Cost savings from consolidating equipment present a one-off step reduction in the cost base, whereas the loss of network competition would reduce the pressure for operators to continually strive to find new efficiency improvements and cost savings.
 - The network quality might not improve significantly.* In principle, a shared RAN can increase capacity and coverage, because each Party can deploy its own spectrum across the combined sites, i.e., on more sites than it would operate on its own. However, this benefit depends on the JV's number of sites being materially higher than each Party's. The Parties' application refers to the "*realisation of significant cost savings...which may facilitate accelerated RAN deployment outcomes*", but the figures are redacted.⁶⁵ To the extent that the JV's number of sites, after cost savings, is not substantially larger than each Party's, the capacity and coverage gains would be correspondingly reduced. The loss of network competition is also likely to reduce the incentive for additional network investment.

There is a significant risk that the JV would reduce wholesale competition

- 4.27 There is also a significant risk that the JV would reduce competition to supply wholesale mobile access to MVNOs for the following reasons.
- 4.28 First, the JV would reduce the number of alternatives from three to two: RANCo (via either Party) and Spark, and MVNOs would have less countervailing buyer power. An MVNO's bargaining position depends on its ability to credibly switch hosts. Where two hosts offer the same coverage and largely the same network performance, the threat to switch between them is less valuable, as switching would not change the service the MVNO can offer its own customers. The effective outside option for an MVNO dissatisfied with RANCo-based terms would become Spark alone.
- 4.29 Second, the price floor set out in paragraph 4.22 above would also apply to wholesale supply. Depending on how RANCo charges each Party, for example whether charges vary with usage, there is a risk that the marginal cost of hosting additional MVNO traffic would rise, limiting the scope for wholesale price competition.
- 4.30 These effects matter more because wholesale competition in New Zealand is already weak. MVNOs' share of retail mobile subscribers grew from 1.6% to 2.5% in 2024, but New Zealand

⁶⁴ Commerce Commission, *2024 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 30 June 2025, p. 11.

⁶⁵ RANCo JV Clearance Application, paragraph 48.

remains among the bottom eight OECD countries for MVNO penetration.⁶⁶ A further reduction in the number of independent host networks is therefore likely to hinder the development of MVNO competition.

- 4.31 As for the retail market, we do not consider that entry or efficiencies are likely to offset these effects in the wholesale market (see paragraph 4.23 onwards above).

⁶⁶

Commerce Commission, *2024 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 30 June 2025, p. 10.

5 Heightened risk of coordinated retail and wholesale mobile market outcomes

5.1 A merger may lessen competition through coordinated effects where it makes it more likely that firms in the market collectively limit their rivalry. Consistent with the approach of the Commerce Commission, we assess whether the JV would make it likely that:

- a. the operators can reach a coordinated position; and
- b. the operators can maintain that agreement by detecting and punishing any firm that deviates from the agreement.⁶⁷

5.2 We consider that there might be a higher risk of coordinated effects in retail and wholesale markets.

5.3 This concern is consistent with the risk identified by BEREC and OECD that sharing could facilitate coordination.⁶⁸ In addition, the EC found in *Hutchison 3G Italy/Wind*, a four-to-three merger of mobile network operators that the transaction was likely to give rise to coordinated effects in the Italian retail mobile market.⁶⁹

The JV makes it easier to reach a coordinated position

5.4 In our view, the JV would make it easier for the MNOs to reach a coordinated position for the following five reasons.

5.5 First, the JV would reduce the number of independent network operators from three to two. The lower the number of players, the more susceptible the market is to coordination, as noted by the Commerce Commission.⁷⁰

5.6 There are also limited external constraints that could make the coordination less likely in the retail market since MVNOs account for a small share and the market structure has been stable.⁷¹ There are no credible outside constraints in the wholesale market as MNO entry is unlikely (see paragraph 4.24 above).

5.7 Second, the JV ties the most aggressive MNO, 2degrees, to One NZ. The Commerce Commission's 2025 Telecommunications Monitoring Report notes that New Zealand's highly concentrated mobile market "...helps explain why competition continued to focus on plan design, added services and

⁶⁷ Commerce Commission, Mergers and Acquisitions Guidelines, May 2022, paragraph 3.84 onwards.

⁶⁸ BEREC, Common position on infrastructure sharing, 2019, p.10-11; OECD, Wireless market structures and network sharing, 2015, p.68.

⁶⁹ EC decision of 1 September 2016, Case M.7758, *Hutchison 3G Italy / Wind / JV*, paragraphs 1208-1211.

⁷⁰ Commerce Commission, Mergers and Acquisitions Guidelines, May 2022, paragraph 3.89.2.

⁷¹ See Figure 1 and paragraph 4.30.

*structural changes rather than direct price cutting in response to 2degrees' comparatively lower pricing.*⁷²

- 5.8 In *Hutchison 3G Italy/Wind*, the EC found that the smallest MNO had the strongest incentive to compete aggressively, because it gained less from coordination and needed to win customers to achieve scale. As a result, due to the removal of a maverick, the transaction was likely to make coordination easier.⁷³
- 5.9 Third, the JV would align One NZ's and 2degrees' coverage and network quality, so that competition between them would focus on a narrower set of parameters (price, bundles, branding). Forsyth Barr notes that "*The sale and leaseback of passive towers, additional spectrum for 2degrees, and the proposed RAN-sharing deal are together eroding network differentiation among NZ's mobile operators.*"⁷⁴ Homogenous goods are more susceptible to coordination according to the Commerce Commission.⁷⁵
- 5.10 Fourth, under the JV, One NZ and 2degrees would share these costs, and their network cost structures would converge. Depending on how RANCo charges each Party (e.g., charges which vary with usage), there is risk that both Parties would face the same per-unit network cost, which may also act as a common price floor and focal point. Firms with similar cost structure are more susceptible to coordination according to the Commerce Commission.⁷⁶ In *Hutchison 3G Italy/Wind*, the EC found that an increase in symmetry was likely to make coordination easier.⁷⁷
- 5.11 Fifth, the Commerce Commission identifies interrelationships through association and cross-partial ownership as one of the factors that may facilitate coordination.⁷⁸ The Parties would jointly own RANCo, buy their network services from it, and take joint decisions on network investment.⁷⁹
- 5.12 The Parties note that the Commerce Commission found the mobile market not vulnerable to coordination in its investigation of Infratil/Vodafone in 2019.⁸⁰ However, the assessment of coordinated effects focused on broadband rather than mobile markets. In our view, that decision provides limited support for the current matter:⁸¹
- Differentiation*: in *Infratil/Vodafone*, final offers were differentiated, making it difficult to reach an understanding on what price to set. The JV would align the Parties' network quality as explained above.
 - Cost differences*: in *Infratil/Vodafone*, cost differences arose where a TSP used its own network infrastructure. The JV would align a significant share of the Parties' costs as explained above.
 - Other aggressive players*: in *Infratil/Vodafone*, there appeared to be several other aggressive players in the market using different strategies to win customers. The JV would leave Spark as the only independent network operator.

⁷² Commerce Commission, *2025 Telecommunications Monitoring Report* (Pūrongo Aroturuki Torotoro Waea 2024), 29 June 2026, p. 228.

⁷³ EC decision of 1 September 2016, Case M.7758, *Hutchison 3G Italy / Wind / JV*, paragraphs 972-981.

⁷⁴ Forsyth Barr, *Splitting the Bill*, 28 August 2026.

⁷⁵ Commerce Commission, *Mergers and Acquisitions Guidelines*, May 2022, paragraph 3.89.1.

⁷⁶ Commerce Commission, *Mergers and Acquisitions Guidelines*, May 2022, paragraph 3.89.3.

⁷⁷ EC decision of 1 September 2016, Case M.7758, *Hutchison 3G Italy / Wind / JV*, paragraphs 982-997.

⁷⁸ Commerce Commission, *Mergers and Acquisitions Guidelines*, May 2022, paragraph 3.89.6.

⁷⁹ There are already some interactions through RCG, a sharing agreement in rural areas.

⁸⁰ RANCo JV Clearance Application, paragraph 279.

⁸¹ NZCC, *Infratil Limited and Vodafone New Zealand Limited* [2019] NZCC 9, paragraph 81.

The JV makes it easier to sustain an agreement

- 5.13 The JV is also likely to make coordination easier to sustain for the following reasons.
- 5.14 First, RANCo would give each Party a degree of ongoing visibility of the other's traffic, capacity requirements and rollout plans. This would make deviation, for example, a Party growing volumes through aggressive pricing, easier to detect.
- 5.15 Second, today, an operator can seek to gain a competitive advantage by investing to gain a network quality lead. Under the JV, unilateral investment decisions by either Party are much less likely for the reasons discussed in paragraph 4.9 onwards. This limits one important potential parameter of competition between the Parties.
- 5.16 Third, if Spark sought to gain a competitive advantage through network investment, the JV could match it more cheaply than either Party could alone, making any response swifter and more credible, and reducing Spark's expected gain from investing to seek to gain an advantage over its rivals.

6 Longer term risks of customer foreclosure of TowerCos

- 6.1 The JV would replace two independent tenants with a single buyer of tower services for most of the Parties' combined network. This is inconsistent with the Parties' submission that the JV will create new and sustained demand for TowerCo assets, given that a significant part of the expected cost savings is likely to come from consolidating equipment onto fewer sites and decommissioning overlapping sites.⁸² Further, the loss of network rivalry can be expected to reduce new investment as noted in Section 4.

⁸² RANCo JV Clearance Application, paragraph 255.