RESPONSES OF 2DEGREES AND ONE NZ TO THIRD PARTY SUBMISSIONS ON THE COMMERCE COMMISSION'S STATEMENT OF PRELIMINARY ISSUES RELATING TO THE PROPOSED RANCO JOINT VENTURE

INTRODUCTION

1. 2degrees and One NZ (together the **Parties**) refer to the third party submissions on the Commerce Commission's Statement of Preliminary Issues (**SOPI**) set out on the Commission's Case Register[1] as at the date of this response, relating to the proposed RANCo joint venture.

2. In this response document, the Parties set out their comments on the third party submissions published by the Commission to date. The Parties begin by endorsing the key themes of the submissions in support of the Proposed Acquisition, before addressing the key themes raised by those submissions in opposition to the Proposed Acquisition. Unless otherwise specified, defined references in this response document are as defined in the Parties' Clearance Application to the Commission.

SUMMARY OF THE PARTIES' RESPONSES

3. As set out in the Parties' more detailed responses below, the submissions on the SOPI either support the Proposed Acquisition and the benefits it will deliver, or raise concerns that have already been considered and addressed in the Clearance Application and the transaction documents, although some of the relevant detail is necessarily confidential.

4. The supportive submissions recognise that, by reducing unnecessary duplication and enabling more efficient investment in shared infrastructure while preserving independent competition in pricing, products, network strategies and customer propositions, RANCo will improve coverage, capacity, resilience and service quality. These efficiencies will strengthen 2degrees' and One NZ's ability to compete, including with Spark, and deliver better outcomes for customers, without reducing the number of independent competitors at either the retail or wholesale level.

5. The submissions raising concerns do not identify any material new issue and, in several cases, appear to misunderstand the nature of the Proposed Acquisition. RANCo is not a "*three-to-two*" merger of MNOs, but an infrastructure-sharing joint venture in respect of a defined, ringfenced set of RAN assets. 2degrees and One NZ will remain independent competitors, retaining control of the key areas in which they are differentiated, including spectrum, core networks, pricing, products, customer relationships and wholesale strategy, and retaining strong incentives to compete for customers and traffic. The Parties have also addressed the potential risks identified by submitters through RANCo's governance and contractual arrangements.

1 Refer to RANCo, Two Degrees Mobile Limited, Two Degrees Networks Limited and One New Zealand Group Limited | Commerce Commission. Submissions on the SOPI have been received from Ernie Newman, The Internet Service Providers Association of New Zealand (ISPANZ), Judy Speight, Compass Lexecon (on behalf of Chapman Tripp for an undisclosed client), Houston Kemp (on behalf of Chapman Tripp for an undisclosed client), Tuatahi First Fibre, WISPA NZ, KLR Capital, Monopoly Watch NZ, SafetyNet Critical Communications Limited, The Technology Uses Association of NZ Inc (TUANZ), and Tū Ātea.

6. Accordingly, while the submissions reinforce RANCo's expected benefits, they do not raise any material new concerns or provide a basis for concluding that the Proposed Acquisition would substantially lessen competition.

THEMES IN SUPPORT OF THE PROPOSED ACQUISITION IN THE SUBMISSIONS RECEIVED

7. In this section, we deal in turn with the following key themes which support the Proposed Acquisition:

   (a) The Proposed Acquisition will help 2degrees to become a stronger competitor to Spark and One NZ;

   (b) RAN Assets have become a given – the competitive difference now lies in matters not covered by the RANCo joint venture;

   (c) Network sharing arrangements can be pro-competitive; and

   (d) Previous reports / articles by Compass Lexecon and Houston Kemp.

The Proposed Acquisition will help 2degrees to become a stronger competitor to Spark and One NZ

8. As an initial point, 2degrees notes the references in the KLR Capital submission to the benefits of the Proposed Acquisition for 2degrees in terms of allowing access to greater capital – for instance, KLR Capital states that RANCo will allow "*the challenger's capital to be spread across a larger shared network rather than duplicated*".[2]

9. As stated in the sections of the Parties' Clearance Application dealing with the rationale for the Proposed Acquisition,[3] [

] This is supported by [

]:

[

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10. What is notable in the third party submissions in opposition to the Proposed Acquisition is that they do not deal with the benefits of RANCo in terms of allowing 2degrees (as the smallest MNO) to become a stronger competitor to Spark and One NZ in the wholesale and retail mobile markets. See **[50]** of the Clearance Application.

2 Refer to KLR-Capital-Submission-response-to-Statement-of-Preliminary-Issues-21-October-2026.pdf at 6.
3 For example, at [6].

RAN Assets have become a given – the competitive difference now lies in matters not covered by the RANCo joint venture

11. The KLR Capital submission observes that:[4]

> "RAN has become a given: customers assume it. The competitive difference now lies in:
>
> • billing, tariff design, account management and administration
> • handset and device provision, configuration and set-up, including eSIM provisioning
> • private 5G and LTE networks
> • network slicing to prioritise coverage for emergencies and vehicle safety
> • imaging audits and protection against rogue employees
> • IoT connectivity, vehicle apps and pallet tracking
> • network APIs
> • surveillance to counter crime, managed security and fraud firewalls"

12. The Parties endorse this statement. The Parties will continue to compete and differentiate across a range of dimensions. In terms of network differentiation, the Parties will retain ownership and/or control over their respective assets that are critical for network differentiation such as spectrum management rights, core networks, and satellite-related assets, which will continue to influence matters such as network speed, capacity, quality and the resulting customer experience. They will also retain control over spectrum strategy and deployment, including which spectrum bands are deployed and the amount of spectrum enabled at particular sites. Spectrum and deployment strategy directly impacts the customer experience and supported services, providing another layer of differentiation and, ultimately, competition.

13. In particular, as noted at **[12]** of the Clearance Application, the Parties will each continue to independently control and operate their respective "*ServCos*" which will manage (among other things):

    (a) wholesale and retail pricing to customers, brand and relationships, distribution, sales, and customer support;

    (b) core network operation (including 3G/4G/5G cores, noting 3G has recently been switched off independently by all three MNOs), IP multimedia subsystem and associated policy, and subscriber management functions;

    (c) plan and product development;

    (d) strategy and pricing for supply to MVNOs and other access seekers in the Wholesale Mobile Market;

    (e) customer experience, including via their respective spectrum holdings and throughput;

    (f) satellite coverage and connectivity;

    (g) fibre backhaul; and

4 Refer to KLR-Capital-Submission-response-to-Statement-of-Preliminary-Issues-21-October-2026.pdf at 8.

(h) cell-site routers – network devices that route data traffic between the cell PoP and the core network, enabling connectivity for voice, SMS and data services.

14. We note that customer experience is broader than network experience and includes matters such as pricing, products, brand and customer service, which remain independently controlled by each Party. Important areas of differentiation will also remain in relation to network experience, including through each Party's spectrum and core network.

15. The above is consistent with the position reached in the Commission's "*Final Report on Whether Mobile Co-Location Should be Omitted from Schedule 1 of the Act*" dated 27 October 2026. The Commission has noted there that:[5]

> "Mobile coverage across the three MNOs is now broadly comparable. Recent rural and 'black spot' coverage, funded through the Government's Rural Broadband Initiative programme and delivered by RCG, has driven extensive RAN sharing, enabling all operators to serve their retail customers from the same site and same set of equipment. This demonstrates that RAN sharing can be achieved between mobile operators to deliver successful outcomes to market participants and consumers. We expect there to be little future demand for regulated Mobile Co-location in light of these developments."

16. The Rural Connectivity Group (**RCG**) experience also illustrates what coverage means in practical terms for customers at its most basic level: whether their phone works, where and when they need it. RCG provides customers of all three MNOs with that common coverage experience in the areas it serves, while the MNOs continue to compete independently through their core networks, products, pricing and customer propositions, including through unilateral and confidential decisions about their own network investment and deployment that can affect the network experience offered to their customers. RCG will remain a significant source of rural mobile infrastructure and is unaffected by the Proposed Acquisition. See **[189(a)–(b)]** of the Clearance Application.

Network sharing arrangements can be pro-competitive

17. Even some third party submissions which are opposed to the Proposed Acquisition acknowledge that RAN network sharing arrangements can be pro-competitive, and will not necessarily have the effect of substantially lessening competition in a market.

18. For instance, TUANZ recognises that "*deep active infrastructure sharing can deliver tangible technical, economic, and consumer benefits when structured appropriately*".[6] In particular, TUANZ correctly acknowledges benefits can include:

(a) "Accelerated Next-Generation (5G Standalone / 6G) Rollouts: Mid-band 5G (3.5 GHz) and future 6G require significant cell-site densification. Pooling capital expenditure through RANCo eliminates redundant hardware spend across duplicate cell sites, potentially accelerating the national rollout of 5G Standalone architecture and low-latency network slicing by 18 to 36 months.

5 Refer to Review-of-Co-location-on-Cellular-Mobile-Transmission-Sites-Final-recommendation-report-27-October-2026.pdf, at [2.21].

6 Refer to TUANZ-Submission-in-response-to-Statement-of-Preliminary-Issues-21-October-2026-.pdf at [15].

(b) Regional Coverage Expansion & Rural Digital Equity: In provincial and rural New Zealand, commercial returns often fail to sustain multiple competing physical active networks. Combining active footprints allows 2degrees customers to access One NZ's regional sites and One NZ customers to leverage 2degrees' provincial base stations. This expanded active grid can enhance the capacity and reach of 5G Fixed Wireless Access (FWA) broadband, providing a high-speed alternative to copper or satellite for farming businesses and rural communities.

(c) Environmental Sustainability & Site Rationalisation: Unifying active radio electronics onto a single modernised layer significantly cuts operational energy consumption across shared base stations. Removing redundant antennas and cabling also reduces wind-loading and visual clutter on passive towers managed by Connexa and Fortysouth.

(d) Preservation of Logical Core Autonomy: Because this is structured as a Multi-Operator Radio Access Network (MORAN), spectrum holdings, logical core networks, billing systems, product bundling, enterprise solutions, and customer service operations remain completely independent."

19. Similarly Compass Lexecon in its report for Chapman Tripp for an undisclosed client acknowledges that international authorities have recognised that mobile network sharing can bring benefits such as wider coverage, better quality, and lower costs.[7]

Previous reports / articles by Compass Lexecon and Houston Kemp

20. It is notable that both Compass Lexecon and Houston Kemp have previously authored reports or articles in other matters that have been more supportive of the benefits of network sharing arrangements between telecommunications providers. For instance:

(a) In his expert report of 2022, Dr Jorge Padilla of Compass Lexecon (acting as an expert for TPG) submitted a report in support of the proposed Telstra/TPG network sharing arrangement in Australia. (As noted in the Parties' Clearance Application at **[164]–[169]**, the Telstra/TPG arrangement involved materially deeper network sharing than RANCo, including TPG authorising Telstra to use its spectrum, which is not the case with RANCo.) In his report, Dr Padilla noted that:[8]

(i) [2.2]: "*the Proposed Transaction can be expected to increase competition to the overall benefit of mobile users. I consider that a major source of the benefit to competition and mobile users is that the Proposed Transaction would immediately and substantially increase TPG's coverage and quality"*; and

(ii) [2.3]: "*In making TPG a stronger competitor and a more credible alternative for many customers, the Proposed Transaction can be expected to drive increased price and quality competition. I expect a significant overall benefit to consumers, particularly in terms of lower quality-adjusted prices, greater choice between quality services and combining incentives for Telstra and Optus to improve their regional networks"*.

7 Refer to Submission of Compass Lexecon at [1.4].

8 Applicants' submission in response to SOPV – Annexure E (expert report of Dr Jorge Padilla) - 03.11.22 - PR - MA1000021 Telstra TPG.pdf.

(b) Similarly, in his expert report of 2022, Greg Houston of Houston Kemp (acting as an expert for Optus) submitted a report in opposition to the proposed Telstra/TPG network sharing arrangement.[9] He concluded that the proposed Telstra/TPG arrangement would have the effect, or would be likely to have the effect, of lessening competition in the retail and wholesale markets for mobile services in Australia.[10] However, in contrast, he went on to state that a potential Optus/TPG network sharing arrangement would be pro-competitive. For instance, he stated:

(i) [48]: "*By contrast, under a potential Optus/TPG arrangement, in which I assume Optus would have an increased ability to improve quality in fringe urban and regional areas, Optus could become a closer constraint on Telstra*";

(ii) [58]: "*the material that I have reviewed, in combination with my analysis of the incentives of the relevant parties, demonstrates the proposed Telstra/TPG arrangement would have the effect, or would be likely to have the effect, of lessening competition in the relevant markets over the medium to long term, as compared to the circumstances prevailing under a potential Optus/TPG arrangement*"; and

(iii) [89]: "*the combination of the effects described above under a potential Optus/TPG arrangement would likely be to increase Optus' incentives to invest in network quality, relative to either the proposed Telstra/TPG arrangement or the status quo*".

21. As noted in the Clearance Application at **[164]–[173]**, both the Telstra/TPG and Optus/TPG network sharing arrangements involved spectrum sharing, unlike RANCo in the present case. Telstra/TPG involved the largest and smallest MNOs in Australia, whereas Optus/TPG involved the second largest and smallest of the MNOs (ie, as does the Proposed Acquisition in this case). On its face, it is therefore of interest that Dr Padilla of Compass Lexecon still considered that the Telstra/TPG network sharing arrangement had pro-competitive benefits, and Greg Houston of Houston Kemp considered that the Optus/TPG network sharing arrangement would not substantially lessen competition in the relevant markets in contrast with those for Telstra/TPG (noting that the ACCC did not oppose the Optus/TPG network sharing arrangement).

22. Other previous articles by Compass Lexecon include the following:

(a) In a 2023 article co-authored by Paul Reynolds, who is one of the authors of the Compass Lexecon report in this matter, Compass Lexecon noted that four-to-three mergers of MNOs (including their networks) can have pro-competitive benefits.[11] While the Proposed Acquisition does not involve an equivalent MNO merger (because the Parties retain their individual ServCos, as well as ownership and/or control over their respective assets that are critical for differentiation), it is notable that Compass Lexecon has previously

9 Refer to Houston Kemp Report for Optus - 28.06.22 - PR VERSION - MA1000021 Telstra TPG.pdf.
10 At [7].
11 Four-to-three-mobile-mergers-The-Analysis.pdf – a study commissioned by Vodafone UK and Hutchison 3G UK.

acknowledged that even full mergers can have pro-competitive benefits. Compass Lexecon noted variously that:

(i) Page 2: "*An overall assessment of the studies reviewed shows that the mergers had little impact on prices, typically having no effect at all, or increasing prices for some customers for a short period only. The EC was criticised for approving the three earlier mergers, in Austria, Ireland, and Germany. But with hindsight, none of them had a sustained negative impact on prices*";

(ii) Page 3: "*Many four-to-three mergers appear to have led to higher quality… These transactions have generally improved mobile service quality – for instance, by extending network coverage and/or increasing download speeds*";

(iii) Page 4: "*A merger can transform laggards, intensifying the competition to lead the market… In the US, merging two market laggards to create a third competitor with sufficient scale accelerated the deployment of 5G. Similarly, in Austria, creating a third competitor at scale increased investment and hastened the roll-out of 4G*";

(iv) Page 4: "*The evidence does suggest distinctive features of mobile technology. Mobile network consolidation generally increases capacity… Consolidating two networks into one is not additive; it is multiplicative, providing more capacity than the sum of its former parts. This may help explain why the speeds of the merged parties' network improved relative to rivals in the US, Italy, and other countries. Greater capacity also supports the parties in offering more data at any given price, which can lead to falling quality-adjusted prices*"; and

(v) Page 5: "*The evidence also suggests that past mergers have in many cases led to quality improvements… The track record of four-to-three mobile mergers, therefore, shows that there is no sound basis for a presumption that they are likely to harm consumers. Instead, assessing the impact that a four-to-three merger will likely have requires careful assessment of both likely price and quality effects in light of specific merger and market characteristics …*".

(b) In a 2026 article, Compass Lexecon described the CMA's assessment of the joint venture between Vodafone Group plc (Vodafone) and CK Hutchison (Three) in the United Kingdom and explored why it considered that the transaction would generate rivalry-enhancing efficiencies.[12] The article noted that:

12 The-Analysis-Mobile-network-mergers-and-investment-incentives-12-03-26.pdf. We note that the author of this article, Linda Gratz of Compass Lexecon, does state in the introduction that "*The views expressed in this article are the views of the author only and do not necessarily represent the views of Compass Lexecon, its management, its subsidiaries, its affiliates, its employees or its clients*."

(i) Page 1: "*reducing duplication can make investment more cost-effective, allowing firms to achieve higher quality standards for a given level of aggregate investment*";

(ii) Page 6: "*Duplication of these fixed costs across multiple parallel networks may be inefficient, as each operator must replicate costly infrastructure even when market-wide demand does not require it. By reducing the number of networks, a merger can lower the aggregate level of fixed investment required to achieve a given quality improvement, with savings that persist on a continuing basis for each future fixed investment*"; and

(iii) Page 7: "*the quality gain from integration places competitive pressure on rivals, compelling them to increase their own investment in order to restore their relative quality position. Competitors' investment responses may trigger further investment activity across the market. At the same time, the merged entity is expected to expand its investment beyond pre-merger levels, as it benefits from lower costs of achieving quality improvements – driven by the ongoing multiplicative effect on capacity from combining sites and spectrum as well as from the effect that duplication of fixed investment is avoided post-merger*".

23. Of course, every proposed network sharing arrangement needs to be assessed on its own merits as part of a case-by-case assessment – as recognised by the European Commission guidelines in 2023 on consideration of horizontal co-operation agreements (referenced at **[174]–[176]** of the Clearance Application).[13] Accordingly the Parties are not maintaining that the above previous statements by Compass Lexecon and Houston Kemp on their own support the RANCo arrangements in the present case. They do suggest however that the competition assessment of the RANCo arrangements is much more nuanced than maintained by Compass Lexecon and Houston Kemp in their current reports in this matter, given both have supported network sharing on other matters in the past (including spectrum sharing – which goes further than what is proposed with RANCo).

THEMES OF THE SUBMISSIONS RECEIVED IN OPPOSITION TO THE PROPOSED ACQUISITION

24. In this section, we deal in turn with the following key themes which reoccur in many of the submissions that are in opposition to the Proposed Acquisition:

(a) This is a three-to-two merger leading to a duopoly – and/or a three-to-two network merger;

(b) RAN assets are the heart of the mobile system – they are a key competitive differentiator;

(c) RANCo will remove incentives to invest;

13 Refer to 2023_revised_horizontal_guidelines_en.pdf.

(d) The Proposed Acquisition will increase the risk of tacit collusion / coordination;

(e) The impact of RANCo on FWA and fibre backhaul procurement;

(f) There is a longer-term risk of customer foreclosure of TowerCos; and

(g) Various other miscellaneous themes.

25. The Parties' responses to each of the above themes are set out below.

This is a three-to-two merger leading to a duopoly – and/or a three-to-two network merger

26. Various arguments are made by third parties along the lines of:

(a) this is a three-to-two network merger,[14] with RANCo tying the aggressive, disruptive 2degrees to One NZ;[15] and

(b) RANCo's ownership ratio and future perimeter are unclear – including whether Spark or a fourth entrant could join, third-party RAN sharing, and any expansion of RANCo's role (eg, backhaul procurement) and associated governance controls.[16]

27. These arguments appear to be based on a misunderstanding of the nature and scope of the Proposed Acquisition. It is neither a three-to-two network merger of 2degrees and One NZ, nor a merger of their respective networks. While RAN Assets will be shared, each of 2degrees and One NZ will retain independent spectrum holdings and strategies, core networks, satellite offerings, network intelligence capabilities, backhaul, and other network assets that drive capacity, quality, product innovation, and customer experience.

28. As a result, both Parties will continue to independently control and operate their respective ServCos which will compete independently in the wholesale and retail markets along with Spark and MVNOs. See **[12], [107]** and **[189]–[190]** of the Clearance Application.

29. In terms of queries about RANCo's ownership ratio and future perimeter raised under this theme, the Parties have decided to unredact the following information from the Clearance Application in order to allay concerns expressed by third parties:

(a) 2degrees and One NZ will have equal shareholdings (49.9% held by 2degrees and 49.9% held by One NZ[17]) and equal Board representation in RANCo;

14 Submission of Ernie Newman at [2], [4], [14(e)] and [24]. Submission of Judy Speight at 1. Submission of Compass Lexecon at [1.9], [4.1] and [5.5]. Submission of TUANZ.

15 Submission of Compass Lexecon at [1.13(a)], [2.10] and [5.7]–[5.8].

16 Submission of Ernie Newman at [15] – [16]. Submission of Tuatahi at [5] (item 6).

17 As stated at footnote 1 of the Clearance Application, the balance of the shareholding in RANCo will be held [ ].

(b) Directors of RANCo will be required to act in the best interests of RANCo, not the appointing shareholder;

(c) Strict information protocols will limit the exchange of competitively sensitive information between RANCo and the Parties, and between the Parties themselves;

(d) RANCo will have independent day-to-day management;

(e) There is provision for third parties to access RANCo sites; and

(f) Backhaul procurement is dealt with further below in this response.

RAN assets are the heart of the mobile system – they are a key competitive differentiator

30. The argument is made that RAN assets are the heart of the mobile system – they are a key competitive differentiator.[18]

31. In contrast, as explained at **[125]–[135] and [224]–[230]** of the Clearance Application, the true parameters of competition between the Parties are factors like price, product quality, consumer experience, and overall network experience. Those outcomes are determined by the Parties' overall end-to-end networks and commercial propositions, and not RAN infrastructure alone. For instance, each Party will remain independently responsible for certifying and approving devices for use on its network. Those decisions by each Party will affect the end-user experience, providing a further dimension on which they can differentiate their offerings.

32. Even within the subset of network competition, the Parties consider that spectrum and core network capability (over which each Party will retain separate ownership and independent decision-making rights) are the key drivers of quality and differentiation for end users. Geographic coverage has become a less significant differentiator as the MNOs' coverage areas have converged (as the Commission has recently concluded in its Final Report on Mobile Co-Location – as set out above). In any event, the Proposed Acquisition will not result in identical geographic coverage for 2degrees and One NZ, and each Party retains the ability to make unilateral RAN investments.

33. In particular, the third party submissions here conflate competition on overall network quality with competition through the RAN Assets themselves. As explained at **[189(a)–(b)]** of the Clearance Application, the Parties will continue to compete on network characteristics including speed and capacity as a result of retaining independent control of the spectrum, core networks, and other assets that drive differentiation.

34. The Parties accept that in earlier times there was competition between the MNOs on coverage issues. However, the MNOs' networks have since converged in terms of overall geographic coverage, with the Commission observing that all three MNOs now

18 Submission of Ernie Newman at [3], [5], [14(a)], [16] and [20]. Submission of Judy Speight at 1. Submission of Houston Kemp at [3(a)] and [5]-[12]. Submission of Compass Lexecon at [1.10(a)], [2.2]-[2.4] and [4.17]-[4.19].

have "*similar coverage areas*" extending to close to 100% of the population.[19] Consistent with that convergence, the Commission has observed that, as the network build era matures, competition is shifting away from network expansion towards pricing, service quality, bundling, operational efficiency, and more efficient use of existing infrastructure.[20] See **[224]–[225]** in the Clearance Application.

35. There nevertheless remains a [

] – that is what 2degrees has been seeking to address as being incorrect in the "blind test" campaign referred to (and which Mr Newman refers to in his submission at [20]). But this is perception rather than a reflection of material differences in geographic coverage. See **[50(c)]** and **[224]** in the Clearance Application.

RANCo will remove incentives to invest

36. The argument is made that RANCo will:

(a) remove the ability and incentives on 2degrees and One NZ to undertake unilateral RAN investments and slow the pace of innovation.[21] Geographic coverage and speed and breadth of 5G, 6G, etc, rollout are referred to as examples; and

(b) weaken Spark's incentives to invest as the RANCo joint venture can more easily match.[22]

37. In relation to the first argument, the Parties note that each of 2degrees and One NZ will retain the ability to deploy RAN unilaterally through RANCo or independently, preserving their ability to differentiate through network investment. Accordingly, neither Party's ability to make a unilateral RAN investment will depend on the other Party agreeing to that investment.

38. The Parties will also retain strong economic incentives to make unilateral investments. Each Party will continue to bear independently the commercial consequences of the quality of its retail and wholesale offering and, if its capacity or service quality falls behind, risks losing customers and traffic to Spark and the other Party. Each Party will therefore retain both the incentive to require RANCo to invest and, where necessary, to pursue unilateral deployment, while capturing the benefits of improvements to its competitive offering including through its core network, spectrum, network intelligence, and customer proposition. As explained at **[211]–[216]** of the Clearance Application, the Proposed Acquisition is expected to facilitate investment, including by accelerating 2degrees' 5G rollout and making additional PoPs more cost-effective to deploy.

19 See https://www.comcom.govt.nz/assets/Documents/review-of-co-location-on-cellular-mobile-transmission-sites/Co-location-on-Cellular-Mobile-Transmission-Sites-Review-Final-decision-paper-24-February-2026.pdf at [2.23].

20 See 2025-Telecommunications-Monitoring-Report-29-June-2026.pdf at 116.

21 Submission of Ernie Newman at [14(b)] and [16]. Submission of Judy Speight at 1. Submission of Tuatahi at [5.2]. Submission of Houston Kemp at [26]-[27]. Submission of Compass Lexecon at [1.9(c)], [4.7] and [4.9]. Submission of TUANZ at 16.b.

22 Submission of Compass Lexecon at [1.9(d)], [1.14(c)], [4.14] and [5.16].

39. These benefits can accrue regardless of whether the other Party wants to make the same investment at the same time. This will include the situation where one Party in RANCo wishes to invest in new technology earlier than the other Party (refer to **[227]–[230]** of the Clearance Application). [

] Accordingly, one Party's ability or willingness to invest will not constrain the other Party's ability or willingness to invest or adopt new technology.

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42. [

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43. Regarding the second argument expressed by Compass Lexecon referencing the alleged risk that "*A two-network market may also reduce Spark's investment incentives*" in contrast with the position for a three-network market,[23] the Parties consider this concern is misguided. The Proposed Acquisition does not result in a two network market for the reasons stated above. It involves sharing the RAN layer rather than combining the Parties' end-to-end networks or the retail and wholesale businesses through which they compete. Important sources of network and service differentiation, including spectrum, core networks and network intelligence, will remain independently controlled and continue to attract investment by each Party. As a result, Spark as the largest MNO should continue to have the same incentives to invest in order to compete with the Parties as it does now.

44. In fact, RANCo may well lead to greater incentives on Spark in future to invest to compete with both RANCo and each of the Parties.

23 Submission of Compass Lexecon at [4.14].

45. We note that, in the earlier Compass Lexecon article on the joint venture between Vodafone and Three in the United Kingdom referred to above, the author noted that:[24]

> "the quality gain from integration places competitive pressure on rivals, compelling them to increase their own investment in order to restore their relative quality position".

46. Similarly, NERA have noted in their report to the Parties that "*the empirical studies of the economic effects of active sharing have found that they increase quality*".[25] This will force rivals to invest in their own quality.

47. In the report of Dr Padilla from Compass Lexecon in the TPG/Telstra matter where he was acting for TPG, Dr Padilla was also of the view that:[26]

    (a) [2.8(a)]: "*TPGs ability to offer much better coverage will increase the competitive pressure on Optus and Telstra to invest to improve their services*; and

    (b) [2.8(b)]: "*Optus will continue to invest to improve its regional network because I calculate that Optus would face a higher cost if it does not do so in terms of losing its customers for whom regional coverage is important*".

The proposed acquisition will increase the risk of tacit collusion / coordination

48. The argument is made that:

    (a) the Proposed Acquisition will increase the risk of tacit collusion / coordination;[27] and

    (b) RANCo will require sharing of commercially sensitive information (traffic, capacity, demand, and rollout plans), increasing transparency between the Parties, making deviation easier to detect and enabling investments to be matched; information protocols may be inadequate.[28]

49. The Parties disagree with the first argument here for the reasons set out at **[278]–[284]** of the Clearance Application, which expressly deals with why there will not be coordinated effects from the Proposed Acquisition. It is worth noting the Commission's previous assessments that "*Downstream retail telecommunications markets also do not appear especially vulnerable to coordination*".[29]

24 See The-Analysis-Mobile-network-mergers-and-investment-incentives-12-03-26.pdf at 7.
25 See RANCo-JV-Clearance-application-Attachment-NERA-report-23-September-2026.pdf at [11].
26 See Applicants' submission in response to SOPV – Annexure E (expert report of Dr Jorge Padilla) - 03.11.22 - PR - MA1000021 Telstra TPG.pdf.
27 Submission of Ernie Newman at [14(e)]. Submission of Tuatahi at [5.7]. Submission of Compass Lexecon at [1.13]–[1.14] and [5]. Submission of TUANZ at [16(c)]
28 Submission of Tuatahi at [5] (item 7) and [6.2(g)]. Submission of Compass Lexecon at [1.14(a)], [3.9(c)], [4.10] and [5.14].
29 See https://www.comcom.govt.nz/assets/pdf_file/0021/223563/2019-NZCC-9-Infratil-Limited-and-Vodafone-New-Zealand-Limited-Clearance-determination-10-July-2019.PDF at [81] and https://www.comcom.govt.nz/assets/pdf_file/0018/317223/Connexa-Limited2C-Two-Degrees-Networks-Limited-and-Two-Degrees-Mobile-Limited-Clearance-determination-4-May-2023.pdf at [86].

50. The risk of inappropriate information sharing is addressed by the detailed information-sharing arrangements described in the Clearance Application at **Appendix 8**, including restrictions on the exchange of competitively sensitive information, clean-team protocols, and competition law guardrails. These arrangements are designed to preserve the Parties' independent competitive decision-making. As part of these arrangements, a Party's wholesale customer information and third-party access requests will not reach the other Party through RANCo.[30] The Parties each separately already routinely and effectively manage commercially sensitive information relating to wholesale partners that compete with them at the retail level, with protocols ensuring that such information is not made available to their competing retail businesses.

51. [

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The Impact of RANCo on FWA and fibre backhaul procurement

52. The argument is made by Tuatahi that:

(a) RANCo changes not only the relative cost and capacity of FWA, but also the incentives of 2degrees and One NZ when deciding how to price, promote and supply retail fibre and FWA services to end-users;[31] and

(b) RANCo may consolidate or coordinate fibre-backhaul procurement, reducing competitive tension between significant purchasers.[32]

53. FWA may compete with fibre for some end-users, which is positive from a competitive perspective. In any event, whether FWA and fibre are treated as falling within the same relevant market does not affect the competition assessment because the Proposed Acquisition does not combine the Parties' downstream fibre or FWA businesses and each Party will continue to independently determine its retail fibre and FWA pricing, promotion, and customer strategy. RANCo will have no involvement in the Parties' supply of those services.

54. In particular, the capacity of FWA is determined by spectrum, and each of 2degrees and One NZ will retain separate ownership and control of their spectrum under the Proposed Acquisition. Spectrum will not be shared within RANCo.

55. In addition, it is important to note that ownership of fibre backhaul assets will also remain with the individual Parties – refer for instance to **[12(a)]** of the Clearance Application.

56. While RANCo will procure backhaul services for the shared RAN Assets, the Parties do not consider that this gives rise to a material competition concern. As noted above, fibre backhaul assets remain outside RANCo, and separately owned and operated.

30 Tū Ātea raised this as a potential concern to be tested at [3(b)] of their submission to the Commission.
31 Submission of Tuatahi at [4.2], [5] and [6].
32 Submission of Tuatahi at [3.1]–[3.5] and [5.4]–[5.6].

RANCo will be able to acquire backhaul services from the Parties and third-party providers. See **[34(e)–(g)]** and **[189(b)(i)]** of the Clearance Application.

57. [

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There is a longer-term risk of customer foreclosure of TowerCos

58. Compass Lexecon argue that there is a longer-term risk of customer foreclosure of TowerCos – RANCo replaces two independent tenants with a single buyer, and site consolidation will reduce demand for tower services.[33] They argue that the facts are inconsistent with the Parties' argument there will be new sustained demand for TowerCo assets.

59. This is already covered in **[270]–[277]** of the Clearance Application.

60. No mention is made by Compass Lexecon of the effect of the long-term agreements that both 2degrees and One NZ have already entered into with Connexa and Fortysouth respectively, which already govern their terms of access to these TowerCos (including both price and quality of services).

61. Nor is there any mention made by Compass Lexecon of the fact that, in the absence of self-supplying further passive infrastructure itself or contracting with small-scale passive infrastructure suppliers, RANCo will remain limited to dealing primarily with Connexa or Fortysouth for the placement of its RAN Assets post-acquisition. This means that each of these TowerCos will continue to have countervailing supplier power in respect of RANCo.

62. We note that the Commission's Mergers and Acquisitions Guidelines state in relation to assessing whether there will be buyer market power as a result of a merger between competing buyers:[34]

> "Buyer market power is, in many ways, the mirror image of market power on the selling side. In particular, it is the ability to profitably depress prices paid to suppliers to a level below the competitive price for a significant period of time such that the amount of input sold is reduced. That is, the price of the product is depressed so low that (some) suppliers no longer cover their supply costs and so withdraw supply (or related services) from the market. Such an outcome reduces the amount of product being supplied damaging the economy."

63. That test is plainly not satisfied by the Proposed Acquisition in the present case given the presence of the long-term agreements and the TowerCo duopoly referred to above.

Various other miscellaneous themes

64. In this last section, we respond in turn to the following miscellaneous themes raised in submissions by third parties:

33 Submission of Compass Lexecon at [6.1].

34 See Mergers-and-acquisitions-Guidelines-May-2022 (13).pdf at [102].

(a) The impact of RANCo on MVNOs;

(b) Overseas examples of network sharing can be distinguished;

(c) Barriers to entry are high and RANCo makes entry harder;

(d) Claimed efficiency benefits are unclear;

(e) The proposed RANCo formation raises concerns regarding network resilience (including for rural areas) and fault remediation;

(f) The relevant counterfactual may involve narrower or geographically limited RAN sharing; and

(g) Clearance should be declined unless binding, enforceable commitments (or regulation) protect competition, innovation, rural coverage, resilience, and MVNO access.

The impact of RANCo on MVNOs

65. The argument is made that:

(a) network sharing would open the way for either one of the two applicant providers to become just a MVNO;[35]

(b) RANCo will lead to a substantial chilling of the incentive for new MVNOs to emerge, and for both parties to compete for MVNO and other wholesale customers.[36] It is maintained that there is a margin squeeze risk for MVNOs;[37] and

(c) MVNOs are not an effective competitive constraint – the MVNO market is unregulated, and MVNOs hold only around 3% of connections, are price takers and cannot differentiate on network quality, so the Parties' reliance on MVNOs as a constraint (and a "destabilising force" against coordination) is misplaced.[38]

66. The suggestion that the Proposed Acquisition would effectively reduce the market from three MNOs to two is incorrect. As explained in the Clearance Application (for instance, at **[11]–[12]**), 2degrees and One NZ will remain independent competitors through their ServCos, notwithstanding their sharing of RAN infrastructure (especially given that asset sharing does not include spectrum and core network assets).

67. The Parties note that Mr Newman has stated that "*The redactions in this section leave open to conjecture the proposed ownership ratio between the two applicant entities.*

35 Submission of Ernie Newman at [14[e)] and [15]. Submission of Compass Lexecon at [1.9(b)].

36 Submission of Ernie Newman at [19]. Submission of ISPANZ at 4. Submission of WISPA at 1. Submission of Tuatahi at [5.9]. Submission of Compass Lexecon at [1.11], [1.12(b)] and [4.28].

37 Submission of TUANZ at [16(d)].

38 Submission of ISPANZ at 2–4. Submission of WISPA at 1. Submission of Houston Kemp at [12] and n 5. Submission of Compass Lexecon at [2.12], [4.30] and [5.6].

If it is 50/50 that is one thing; but a significant imbalance such as 90/10 might be a precursor to one or other applicant becoming in effect a MVNO".[39] As explained above (and in the Clearance Application), 2degrees and One NZ will have equal shareholdings in RANCo (49.9% held by 2degrees and 49.9% held by One NZ[40]). We take it from Mr Newman's submission that he would have less concern over a joint venture with equal shareholdings, which is the case here. See **[26]** of the Clearance Application.

68. The concern that the Proposed Acquisition will reduce competition for MVNO business is addressed at **[242]–[248]** of the Clearance Application.

69. Each Party will continue to compete independently for MVNO business through its respective ServCo, retaining the assets and capabilities required to differentiate on wholesale products, service levels, technology, and pricing. In particular, each Party will retain independent wholesale operations and will continue to compete for MVNO business, while recent initiatives by all three MNOs are reducing the cost and complexity of establishing and expanding MVNO offerings. See **[118]** and **[242]–[248]**, particularly **[246]** and **[248]**, of the Clearance Application. We note for instance the new One NZ / Advantai 10-year enablement agreement which will support the launch and operation of MVNOs on One NZ's network, with Boost Mobile New Zealand confirmed as the first brand set to launch later this year – noting that this was signed and announced by One NZ on 14 October 2026 after the RANCo announcement.[41]

70. [

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71. Lastly, the third party submissions that MVNOs are not an effective competitive constraint overstate the role of MVNOs in the Parties' competition analysis. The Clearance Application does not rely on MVNOs alone to constrain the Parties, but identifies them as an additional source of constraint alongside the primary constraints from the largest MNO (Spark) and the continuing independent competition between 2degrees and One NZ through their respective ServCos. Refer for instance to **[12(b)]** of the Clearance Application.

72. Further, as explained at **[242]–[248]** of the Clearance Application, the Proposed Acquisition will not impede MVNO access to wholesale mobile services, with each Party continuing to compete independently for MVNO business through its respective ServCo. Each Party remains free to supply wholesale services to MVNOs in its discretion, as a result of maintaining control of its spectrum, its core network and its wholesale decision-making (price strategy, etc).[42] Technically, a MVNO usually connects to the RAN assets at present through the core network of the relevant MNO. Under the proposed MORAN network sharing arrangement for RANCo, that position

39 Submission of Mr Newman at [15].

40 As stated in footnote 1 of the Clearance Application, the balance of the shareholding in RANCo will be held [ ].

41 See https://media.one.nz/exclusive-10-year-partnership-with-advantai-group-with-boost-mobile-new-zealand-set-to-launch-this-year

42 This was a concern that Tū Ātea has asked the Commission to test at [3(b)] of its submission.

will remain the case – a MVNO will still be able to connect to the core network of each of 2degrees and One NZ separately since that is not being shared.

73. Each of 2degrees and One NZ can differentiate on network quality vis-à-vis the other two MNOs (and other MVNOs using the other two MNOs) because the networks will still differ as a result of their different spectrum and core networks.

Overseas examples of network sharing can be distinguished

74. The Compass Lexecon submission:

(a) states that "*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*";[43] and

(b) downplays the relevance of the empirical studies NERA cited in its report.[44] In particular, they state the Koutroumpis, Castells and Bahia (2023) report, which assesses the impact of mobile network sharing in Europe during the 2000-2019 period, "*provides limited support for the conclusion that the JV would not substantially lessen competition*".[45] They also state that the two papers analysing the Czech network sharing agreements between O2 CZ and T-Mobile CZ: Cojoc et al (2020) and Maier-Rigaud et al (2020) "*provide little support for the Parties' position*".[46]

Overseas national active sharing in three-operator markets is confined to Iceland and Belgium, with a proposed arrangement currently being reviewed in Norway

75. Compass Lexecon's submission here does not provide a complete picture of the international experience with active RAN sharing.

76. First, the international experience with active RAN sharing is broader than the Compass Lexecon submission suggests, including in markets characterised by three national MNOs:

(a) **Canada**: The Canadian mobile market has historically been dominated at the national level by three MNOs: Bell, TELUS and Rogers.[47] In 2009, Bell and TELUS jointly built a national HSPA (3G) network under an active RAN sharing arrangement.[48] They subsequently continued network sharing in their deployment of LTE and have entered into reciprocal spectrum-subordination arrangements to enhance the spectrum efficiency of their joint LTE

43 Submission of Compass Lexecon at [1.5].
44 Refer for instance to the Submission of Compass Lexecon at [3.11]–[3.12].
45 Submission of Compass Lexecon at [3.11].
46 Submission of Compass Lexecon at [3.12].
47 See https://my.idc.com/getdoc.jsp?containerId=CA52253425&pageType=PRINTFRIENDLY
48 See https://www.mobileworldlive.com/old_latest-stories/bell-and-telus-team-on-hspa-plan-move-to-lte/

network.[49] This arrangement is therefore a deeper form of active sharing than the proposed RANCo arrangement, under which the Parties will retain separate spectrum. The subsequent introduction of Quebecor as a fourth national competitor from 2023 also demonstrates that the existence of the Bell/TELUS MOCN arrangement has not prevented further network entry and expansion;[50] and

(b) **United Kingdom**: Vodafone and Virgin Media O2 (jointly owned by Telefónica and Liberty Global) have operated a longstanding active RAN sharing arrangement, known as Project Beacon, since 2012.[51] It includes MORAN sharing of active RAN equipment while the operators retain separate spectrum.[52] Following completion of the Vodafone/Three merger in May 2025, Beacon continues in a market with three national MNOs.[53]

77. Second, the three-operator markets identified by Compass Lexecon provide relevant comparators for RANCo. National active RAN sharing has been permitted in both Iceland and Belgium, including following substantive competition scrutiny, while the proposed arrangement in Norway is currently under review:

(a) **Iceland**: The Icelandic Competition Authority authorised national active RAN sharing, including spectrum sharing, between Nova and Vodafone Iceland in 2015, subject to conditions including wholesale access for MVNOs.[54] The arrangement was permitted more than a decade ago and provides a longstanding example of national active RAN sharing in a three-operator market, with identified competition concerns addressed through targeted safeguards rather than prohibition;

(b) **Belgium**: In 2019, Proximus and Orange Belgium, two of Belgium's three incumbent MNOs, entered into a national active RAN sharing arrangement.[55] The arrangement involves MORAN sharing of active and passive RAN

49 See https://www.mobileworldlive.com/old_latest-stories/bell-and-telus-team-on-hspa-plan-move-to-lte/, https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/radiocommunications/spectrum-licensing/subordinate-spectrum-licences-held-bell-mobility-inc-and-telus-communications-company and https://ised-isde.canada.ca/site/spectrum-management-telecommunications/en/spectrum-allocation/spectrum-licensing/subordination-spectrum-licences-between-bell-mobility-inc-and-telus-communications-inc.

50 See https://www.quebecor.com/en/freedom-mobile

51 See https://rethinkresearch.biz/articles/vodafone-and-o2-pull-back-on-ran-sharing-as-urban-data-usage-soars/

52 See https://news.virginmediao2.co.uk/vodafone-and-virgin-media-o2-announce-new-long-term-network-sharing-agreement/, https://www.telecoms.com/5g-6g/vodafone-kicks-off-uk-5g-multi-operator-ran-era and https://news.virginmediao2.co.uk/archive/telefonica-and-vodafone-to-strengthen-their-network-partnership-in-the-uk-with-5g-sharing/

53 See https://www.vodafone.com/news/newsroom/corporate-and-financial/completion-of-vodafone-and-three-merger-in-the-uk, https://www.vodafone.com/news/newsroom/corporate-and-financial/vodafone-and-virgin-media-o2-announce-new-long-term-network-sharing-agreement and https://news.virginmediao2.co.uk/vodafone-and-virgin-media-o2-announce-new-long-term-network-sharing-agreement/

54 See https://www.samkeppni.is/wp-content/uploads/2025/07/Akvordun_14_2015_Undanthaga-Vodafone-og-Nova.pdf and https://www.samkeppni.is/en/release/news/vodafone-and-nova-home-have-entered-into-a-partnership-to-operate-a-distribution-network-for-mobile-phone-services/

55 See https://newsroom.orange.com/network-sharing-agreement-in-belgium-between-orange-belgium-and-proximus/?lang=eng and https://insights.opensignal.com/reports/2019/09/belgium/mobile-network-experience

infrastructure, while the parties retain separate spectrum and core networks.[56] Following a complaint by Telenet, the third-largest MNO, the Belgian Competition Authority conducted an in-depth investigation and dismissed the complaint, finding no actual or potential restriction of competition arising from the RAN sharing arrangement in either the retail or wholesale mobile markets.[57] The Belgian example therefore demonstrates that national active RAN sharing between two significant operators can be compatible with effective competition in a three-operator market. The subsequent entry of DIGI in 2024 shows that the existence of the RAN sharing arrangement has not prevented further network entry;[58] and

(c) **Norway**: The proposed national active RAN sharing arrangement between Telia and Ice, which includes spectrum but excludes core networks and backhaul, remains under regulatory review.[59] Compass Lexecon refers at [3.6(c)(iii)] to Nkom's preliminary assessment that the arrangement may raise competition concerns which may warrant a wholesale access condition. However, Nkom is Norway's sectoral communications regulator and has itself stated that the Norwegian Competition Authority has the central role in assessing the arrangement under competition law.[60] In any event, Nkom's assessment is preliminary and contemplates that any concerns may be addressed through conditions or other remedies – and noting that this matter includes spectrum which RANCo does not.

78. Third, the other international examples cited by Compass Lexecon do not support an adverse inference in relation to RANCo. The proposed arrangements in Latvia and Lithuania were materially deeper than RANCo, while the ACCC has permitted an arrangement involving spectrum sharing which also goes beyond the sharing proposed under RANCo. Expanding on this:

(a) **Latvia and Lithuania**: Compass Lexecon notes at [3.6(c)(iv)] that the proposed network-sharing arrangements between Tele2 and Bite were discontinued because of conditions sought by regulatory authorities. However, those arrangements contemplated materially greater network integration than RANCo. Tele2 and Bite proposed 50:50 joint ventures that would build, own and operate their mobile networks in each country, merge their existing radio and backhaul networks, share spectrum and active and passive network infrastructure, and ultimately share their entire radio networks other than customer-specific solutions.[61] By contrast, RANCo is

56 See https://mwingz.be/our-company/, https://www.belgiancompetition.be/sites/default/files/content/download/files/BMA-2022-PK-49-AUD%20PUB.pdf and https://newsroom.orange.com/network-sharing-agreement-in-belgium-between-orange-belgium-and-proximus/?lang=eng

57 See https://www.belgiancompetition.be/sites/default/files/content/download/files/20230130_Press_release_5_BCA.pdf

58 See https://www.ookla.com/articles/digi-belgium-launch

59 See https://nkom.no/aktuelt/ice-og-telia-inngar-samarbeid-i-norge and https://nkom.no/aktuelt/innspill-om-lyse-og-telias-frekvensoverforing

60 See https://nkom.no/aktuelt/ice-og-telia-inngar-samarbeid-i-norge

61 See https://www.tele2.com/files/Main/3372/2830618/release.pdf and https://www.tele2.com/media/news/2019/tele2-and-bite-sign-agreement-to-share-networks-in-latvia-and-lithuania/

limited to the Parties' RAN assets; spectrum, core networks and physical backhaul will remain outside RANCo and be independently owned and controlled by the Parties. The regulatory response to the Tele2/Bite arrangements therefore provides limited guidance on the competitive effects of RANCo; and

(b) **Australia**: As noted above, the ACCC did not oppose the network-sharing arrangement between Optus and TPG, finding that it was unlikely to substantially lessen competition. That arrangement involves materially deeper network integration than RANCo: it is an 11-year MOCN arrangement under which Optus is authorised to use TPG's spectrum in the relevant regional areas, TPG receives network services from Optus, and TPG will decommission most of its network sites in those areas.[62] By contrast, under RANCo the Parties will retain separate spectrum, core networks, and physical backhaul. While the Australian arrangement is geographically limited, it provides a further example of a competition authority not opposing active network sharing involving materially greater network integration than RANCo.

79. Finally, the Ofcom materials relied on by Compass Lexecon at [2.8]–[2.9] of its submission date from 2021 and before, and pre-date the Vodafone/Three merger. That merger reduced the number of national MNOs in the United Kingdom from four to three and was permitted by the CMA in 2024 subject to binding network investment commitments, with the CMA concluding that the resulting improvements in network quality were likely to boost competition in the long term.[63] The subsequent UK experience therefore demonstrates that a reduction in the number of independent MNOs may be accepted where it enables increased investment and improvements in network quality, subject to appropriate safeguards.

Relevance of the empirical studies NERA cited in their report

80. It is important to note that the empirical studies referred to by NERA in their report are the only empirical studies directly examining RAN sharing. They provide evidence of improvements in network quality, with some evidence of price reductions (or no effect on price). These studies are directly relevant for the Commission's analysis of the likely effects of the RANCo joint venture.

81. The Compass Lexecon report does not grapple with this conceptual point or with the finding of these empirical studies: that RAN sharing improves quality by enabling investment to occur sooner and making additional investments viable that may otherwise not have been undertaken.[64]

62 See https://www.accc.gov.au/public-registers/acquisitions-and-mergers-registers/public-informal-merger-reviews-register-2002-25/optus-mobile-pty-ltd-and-tpg-telecom-limited-proposed-network-and-spectrum-sharing and https://www.accc.gov.au/media-release/accc-will-not-oppose-optus-and-tpg-regional-mobile-network-and-spectrum-sharing

63 See https://www.gov.uk/government/news/cma-clears-vodafone-three-merger-subject-to-legally-binding-commitments

64 At [9] and [12] of NERA's first report.

82. Regarding the Koutroumpis et al study, the Compass Lexecon submission's attempts to downplay the study's support contrast with the strong conclusions drawn by the authors of the study, for example at pages 10-11 (emphasis added):

> "When looking at the impact of different types of sharing, we find that capex savings, profit margin improvements, 3G coverage improvements and price reductions were particularly associated with passive sharing. Meanwhile, **the positive effects of network sharing on 4G coverage and download speeds were mostly driven by active sharing**, which became more prevalent when operators rolled out 4G networks after 2010. **These results are robust to several identification strategies**, including new Difference-in-Difference estimators that address the biases that can exist in traditional two-way fixed effects estimators.
>
> The study also has important implications for the 5G era, as operators are expected to incur higher deployment costs than previous technologies, partly due to the need for more sites and spectrum. Given these comprise the largest portion of infrastructure cost, the sharing of networks is likely to take on even more importance to deliver the high performance requirements of 5G while at the same time handling the increased traffic demand from consumers. **The results from this study provide compelling evidence that network sharing has an important role to play in enabling the competitive provision of widespread 5G networks**."

Barriers to entry are high and RANCo makes entry harder

83. The argument is made that barriers to entry as an MNO are high and RANCo makes entry harder (it lowers the Parties' costs relative to an entrant, and results in fewer independent hosts for wholesale access/roaming to assist buildout).[65]

84. The Parties do not consider this will be the case. They submit in response that:

(a) The increased efficiencies to the Parties from lowered network costs are not a barrier to entry by third parties;

(b) Under the RANCo arrangements, there is the ability for third parties to have access to RAN Assets from RANCo or from Spark;

(c) RANCo will be a motivated provider of RAN services to third parties. As a result, RANCo should reduce, rather than increase, barriers to entry or expansion. Subject to its commercial terms and available capacity, access to an established RAN platform will allow a new entrant or spectrum holder such as Tū Ātea to obtain RAN services without independently funding and building a nationwide RAN network itself;

(d) In addition, both Parties' ServCos will continue to compete to provide MVNO access to third parties (eg, if they wished to first build a brand as a MVNO);

(e) In terms of access to passive infrastructure for a third party, both TowerCos are independent and would presumably welcome new entry; and

(f) The combination of RANCo and the TowerCos being available as independent commercial entities that are incentivised to sell active and passive services should make new entry easier compared to the traditional high-cost MNO model.

65 Submission of Compass Lexecon at [1.12(a)]–[1.12(b)] and [4.24].

Claimed Efficiency Benefits are Unclear

85. It is argued that:

(a) It is unclear whether the parties will have a sufficient or any incentive to pass efficiency benefits through to consumers.[66] In particular, the Compass Lexecon report asserts that because the expected cost savings largely relate to fixed costs, they will not be passed through to consumers;

(b) Claimed efficiencies are unquantified (redacted), largely one-off, achievable through less extensive sharing, may be captured as free cash flow for shareholders, and may not improve network quality unless the JV's site count is materially larger; duplicate towers are already addressed by co-location;[67] and

(c) 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.[68]

86. Dealing with the first argument that the parties will not have a sufficient or any incentive to pass efficiency benefits through to consumers, the Parties do not consider that this follows, bearing in mind that they will continue to compete with one another through their respective ServCos in the wholesale and retail mobile markets (together with Spark and MVNOs).

87. Moreover, in telecommunications markets, continued investment in new technology such as 5G (and future technologies) is critical to competition.[69] This is likely to increase over time and is a fundamental part of the rationale for the Proposed Acquisition (for instance as set out in **[4]–[5]** of the Clearance Application). There will remain a strong incentive to pass on the benefits of these technologies, and the savings achieved via RANCo, to consumers.

88. Furthermore, the empirical studies of RAN sharing referred to by NERA find evidence of price reductions.

89. Contrary to the submissions that claimed efficiencies are unquantified, the benefits of the Proposed Acquisition are quantified and supported in the Clearance Application. As explained at **[48]–[51]**, [ ], alongside improved coverage, quality and investment. Further, **[211]–[220]** of the Clearance Application explain how network-sharing efficiencies can benefit consumers through accelerated technology rollout, improved network quality and coverage, and lower prices.

66 Submission of Houston Kemp at [28]. Submission of Compass Lexecon at [1.10(b)–(c)] and [4.21] – [4.22].

67 Submission of Ernie Newman at [16]–[17]. Submission of Houston Kemp at [28]. Submission of Compass Lexecon at [1.12(c)], [4.20] and [4.26].

68 Submission of Compass Lexecon at [5.10]. Submission of Monopoly Watch NZ at [4.7].

69 The Federal Court in *Vodafone Hutchison Australia Pty Limited v Australian Competition and Consumer* Commission found that investment (eg, in fifth-generation mobile networks – 5G) is an important component of competition in mobile markets. Accordingly, if increased cash flows due to fixed cost savings would result in more investment, that would be a competitive benefit.

90. Regarding the argument that the common per-unit network cost may also act as a price floor and focal point, this is an incorrect characterisation of the Parties' cost models. Under RANCo, the Parties will pay a fixed price for access to a shared site, meaning the cost will [

], and RANCo's charges will in any event represent only one component of each Party's overall cost of supplying mobile services. Accordingly, the RANCo charging arrangements will not create a common downstream cost base or remove the Parties' independent incentives to compete.

91. It is therefore not the case that RANCo creates an artificial "*price floor*" by increasing the Parties' respective marginal cost for servicing additional customers.[70] The Parties will retain the ability to price freely at the retail and wholesale level and compete for additional customers. Equally, RANCo's charging arrangements do not grant the Parties any additional insight of each other's incremental or "*per-unit*" network costs.

The proposed RANCo formation raises concerns regarding network resilience (including for rural areas) and fault remediation

92. Various arguments are raised that the proposed RANCo formation raises concerns regarding network resilience (including for rural areas) and fault remediation.[71]

93. The concern regarding infrastructure resilience and fault remediation is addressed in the Clearance Application. As explained at **[5(e)]** and **[48(e)]**, the Proposed Acquisition is expected to improve resilience and fault response through consolidated network monitoring and maintenance and coordinated fault response. In particular, a larger, more scaled operator like RANCo that runs networks as its core business will be more efficient. Better resilience will be more achievable as there are efficiencies in only needing to get a single site back up and running after a major weather event to restore service to the end-users connected to that site, rather than having to get two sites back online. RANCo may also improve the economics of investment in site-level resilience, as cost savings from network sharing can be directed towards resilience measures and the cost of those measures can be supported across services provided to both Parties. The Parties also point to the subsequent development of satellite technology/coverage which assists with resilience, and which was not available in earlier weather events like Cyclone Gabrielle (noting that satellite assets are not part of the Proposed Acquisition).

94. [

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95. In addition, the Parties do not consider that the Proposed Acquisition will materially increase the risk or impact of a single point of failure affecting both Parties' customers.

70 Compass Lexecon submission at [5.10].

71 Submission of Ernie Newman at [6], [14(c)], [14(d)] and [20]. Submission of WISPA at 1. Submission of SafetyNet. Submission of TUANZ at [16(e)].

While certain RAN Assets will be shared, this does not mean that all potential points of failure will be common to the Parties. Each Party will continue to operate separate core networks, while RANCo will incorporate appropriate redundancy and resilience measures across its RAN Assets. RANCo may also improve the economics of investment in site-level resilience. The cost of measures such as extended battery capacity and other backup arrangements can be supported across the services provided to both Parties, potentially enabling resilience investments that would be less economic if undertaken separately.

96. It is also important to note that, following the filing of the Clearance Application with the Commission, as required under section 50 of the Telecommunications (Interception Capability and Security) Act 2013, the Government Communications Security Bureau (**GCSB**) has independently considered the following:

> (a) "… the likelihood that the matter giving rise to the risk will lead to—
>
> > (i) the compromising or degrading of the public telecommunications network; and
> > (ii) the impairment of the confidentiality, availability, or integrity of telecommunications across the network; and
>
> (b) … the potential effect that an event described in paragraph (a)(i) or (ii) will have on the provision of—
>
> > (i) central or local government services:
> > (ii) services within the finance sector:
> > (iii) services within the energy sector:
> > (iv) services within the food sector:
> > (v) communication services:
> > (vi) transport services:
> > (vii) health services:
> > (viii) education services; and
>
> (c) … any other matter that the Director or Minister considers relevant."

97. The GCSB concluded on 19 October 2026 that the Proposed Acquisition "*does not raise a network security risk and there is no impediment to implementing or giving effect to your proposal*" (provided alongside this document).

98. The concern that the Proposed Acquisition may reduce investment in rural and regional areas is also addressed in the Clearance Application. As explained at **[48(b)–(d)]**, the Proposed Acquisition is expected to enable earlier deployment of new coverage and capacity, including deeper rural and regional coverage, with [ ] facilitating accelerated RAN investment and network improvements. [ ] In any event, the RCG will continue to play the biggest role in extending connectivity to rural areas, and it is unaffected by the Proposed Acquisition. RCG can, and has, deployed ServCo-funded sites at the request of individual ServCos. The RCG experience illustrates that network sharing can deliver efficiencies through

joint investment, while still allowing individual ServCos to fund additional deployments where they wish to do so.

99. Active RAN sharing may also benefit communities by having fewer towers. Mr Newman submits at [17] of his submission that, while passive RAN sharing can be justified by "*a reduction in land use, visual pollution and expensive tower cost*", active RAN sharing "*has no proven community benefits*". The Parties disagree for two reasons. First, active sharing delivers community benefits in its own right. As TUANZ acknowledges,[72] removing redundant antennae and cabling reduces wind-loading and visual clutter on passive towers. Second, active sharing is what makes the tower-related benefits Mr Newman accepts possible. By enabling duplicate RAN infrastructure to be consolidated, it allows some sites to be rationalised into a single RANCo site (see **[39]** of the Clearance Application), reducing the number of towers required and the associated land use and visual impact.

100. SafetyNet also raises a specific question about whether the Proposed Acquisition could impact One NZ's ability to continue meeting its obligations in relation to the Public Safety Network. The Parties do not consider that it will. [

]

The relevant counterfactual may involve narrower or geographically limited RAN sharing

101. The argument is made that the relevant counterfactual may involve narrower or geographically limited RAN sharing.[73]

102. This is incorrect. In particular, as noted in **[56]** of the Clearance Application:

(a) [

]; and

(b) [

].

103. [

] [

72 See Submission of TUANZ at [15].

73 Submission of Houston Kemp at [19]–[24]. Submission of Compass Lexecon at [4.4]–[4.5] and [4.26(a)].

] [

]

Clearance should be declined unless binding, enforceable commitments (or regulation) protect competition, innovation, rural coverage, resilience and MVNO access

104. Various submissions are made that clearance should be declined unless binding, enforceable commitments (or regulation) protect competition, innovation, rural coverage, resilience and MVNO access.[74]

105. As the Commission will be well aware, the only enforceable commitments the Commission can currently accept under the Commerce Act are structural divestments, rather than the behavioural commitments referred to here. In any event, the concerns raised by submitters have been considered in the design of RANCo and are addressed through its governance and contractual arrangements (as set out in the Clearance Application).

74 Submission of ISPANZ at 5. Submission of Judy Speight at 1. Submission of WISPA at 1.